

1 IN THE COUNTY OF WASHINGTON

2  
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY  
4 VIRGINIA GAS AND OIL BOARD  
5  
6  
7

8 JANUARY 17, 2006  
9  
10  
11

12 APPEARANCES:

13 **BOARD MEMBERS:**

13 BILL HARRIS - PUBLIC MEMBER  
14 PEGGY BARBAR - PUBLIC MEMBER  
14 MARY QUILLEN - PUBLIC MEMBER  
15 JAMES McINTRYE - PUBLIC MEMBER

16 **CHAIRMAN:**

16 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN  
17

18 **COUNSEL:**

18 SHARON PIGEON - ASSISTANT ATTORNEY GENERAL  
19

20 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
20 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD  
21

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22 MICHELLE BROWN  
23 COURT REPORTING, INC.  
24 P. O. BOX 1325  
GRUNDY, VIRGINIA 24614

(276) 935-7141  
(276) 935-8374 (FAX)

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10 \*Approve minutes

11

12

13 BENNY WAMPLER: Good morning, my name is Benny Wampler.  
14 I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy  
15 and Chairman of the Gas and Oil Board. I'll ask the Board members to introduce  
16 themselves starting with Ms. Barbar.

16

17 PEGGY BARBAR: Good morning. I'm Peggy Barbar. I represent  
18 the public at-large.

18

19 BILL HARRIS: I'm Bill Harris, a public member from Wise County.

19

20 SHARON PIGEON: I'm Sharon Pigeon with the office of the  
21 Attorney General.

21

22 MARY QUILLEN: Mary Quillen. I'm with the University of Virginia's  
23 Higher Ed Center here, Director of Academic Programs and I'm a citizen  
24 representative.

24

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1                   JAMES McINTYRE: Jim McIntrye, Wise, Virginia, appointee.

2                   BOB WILSON: Bob Wilson. I am the Director of the Division and  
3 Gas Oil and Principal Executive to the staff of the Board.

4                   BENNY WAMPLER: Thank you. The first item on the agenda is the  
5 Board will receive a quarterly year-end report on the Board's escrow account as  
6 administered by Wachovia Bank, the escrow agent for the Board. Mr. Wilson.

7                   BOB WILSON: Thank you. Each of you has a letter there that  
8 basically has the quarterly report, the quarter ending December 31 or December  
9 30. We show a beginning balance of \$11,756,081.93. During the quarter, we  
10 received deposits of \$912,940.76 and interest of \$99,030.98. We had  
11 disbursements during the quarter totaling \$34,562.74. There were no fees  
12 removed during this quarter. There was an adjustment made to the account in the  
13 amount of \$7,087.66. These were deposits that came in that were not attributable  
14 to specific sub-account and were returned. This leaves us a closing balance as of  
15 the end of the year of \$12,726...726,403.27. Our interest rate, as of the end of  
16 December, 3.86, which is a substantial improvement, of course. It should help us  
17 with some of our concerns that we had earlier about getting a decent return on the  
18 money.

19                   For the year, there is a second sheet behind this where I have  
20 summarized the year 2005. We started off with a balance last January 1 of  
21 \$10,031,133.91. We gained for the year \$2,695,269.36 on deposits of  
22 \$2,899,712.06 and total interest of \$303,150.04. Total disbursements for the year  
23 were \$440,505.07 with \$60,000 paid out in contract fees to the bank. Our interest

24

--

1 rate varied from 2.25% up to a high of 3.86%, which is where it is right now  
2 compared to 2004 where we had a low interest rate of .89%. That has made a  
3 substantial difference in covering our expenses and adding to the account.

4 Attached also to this report is a semi-annual report of  
5 disbursements. The individual and the backup individual who usually does these  
6 reports for us was off when these postings were completed. So, we have a  
7 different format here. This less the individuals who received disbursements  
8 during the last half of 2005. I have not checked to see if these numbers are  
9 correct or anything. We'll get that in the usual format later on and putting it in our  
10 file. That's all I have on that.

11 BENNY WAMPLER: Any questions from members of the Board?

12 BILL HARRIS: Mr. Chairman.

13 BENNY WAMPLER: Mr. Harris.

14 BILL HARRIS: Bob, I probably have the same question every time  
15 and it's probably my lack of knowledge of accounting. But this accrued fees and  
16 then quarterly fees not removed. I'm...I'm a little confused about why we show  
17 this twice. Is this...I know one is in red, does that mean it's being subtracted and  
18 the other is positive, but it says not---.

19 BOB WILSON: Yes, it is---.

20 BILL HARRIS: ---removed. So, when...when is this paid out?

21 BOB WILSON: It is confusing. It's paid out in February and August  
22 of each year. They...they debit the account for 15...for \$30,000 in February and  
23 \$30,000 in August rather than doing it on a monthly basis.

24

--

1           BILL HARRIS: They show it monthly---.

2           BOB WILSON: They show it---.

3           BILL HARRIS: ---as an accounting method...yeah, yeah.

4           BOB WILSON: ---on here for their purposes, but it has not been

5 removed from the account. I...I had the same problems with this originally that

6 you do. I finally gave up and let them put it on here. It's to our advantage that

7 they only deduct it twice a year---.

8           BILL HARRIS: Well, yeah, interest wise.

9           BOB WILSON: ---rather than monthly. But...and I still don't

10 understand why they do it, but that's okay.

11           BILL HARRIS: Okay, thank you. That's what I needed.

12           BENNY WAMPLER: Other questions?

13           (No audible response.)

14           BENNY WAMPLER: Thank you. The next item on the agenda is a

15 petition from Equitable Production Company for repooling of conventional unit V-

16 502028. This is docket number VGOB-05-0816-1492-01. It was continued from

17 December. We'd ask the parties that wish to address the Board in this matter to

18 come forward at this time.

19           JIM KAISER: Mr. Chairman and Board members, Jim Kaiser and

20 Don Hall on behalf of Equitable ProductiFebruary 10, 2006on Company. I'd ask

21 that he be sworn at this time.

22           (Don Hall is duly sworn.)

23           BENNY WAMPLER: The record will show no others. You may

24

1 proceed.

2

3

DON HALL

4 having been duly sworn, was examined and testified as follows:

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. KAISER:

7 Q. Mr. Hall, this was a well that we originally pooled in  
8 August, 2005, is that correct?

9 A. Yes, correct.

10 Q. And we're back before the Board today to repool it. Can  
11 you explain for the Board why we're back?

12 A. On a subsequent title examination, it was determined that  
13 the western part of that unit, which was initially broken up into several smaller  
14 tracts, turned out to be...title examination indicated that it was on the W. B.  
15 Powers heirs. Those heirs were...W. B. Powers disappeared sometime early in  
16 the 1900s. We haven't been able to locate any of those heirs. The purpose of  
17 repooling is to notify the parties that we're taking out of the unit, which are listed  
18 in B-2, and adding the W. B. Powers' tract as one our tracts to be force pooled.

19 In addition to that, we've determined that Tract 16 on the new permit  
20 or on the plat there's a 1 acre out sell on it as well. So, we've split Tract 16 into  
21 two tracts, being 16 and 16A. Those are listed in B-2 as the tracts...as the parties  
22 that are to be added. Also, those parties we've not been able to find them. So,  
23 it's a matter of getting the correct title information on the plat and in the exhibit.

24

--

1 Q. Okay. And then prior to today, we not only sent the  
2 corrected plat and the new exhibits to the Board, but we also noticed those parties  
3 whose interest was affected, as set out on B-2 and also published again, is that  
4 correct?

5 A. That's correct.

6 JIM KAISER: Mr. Chairman, we'd ask that...

7 Q. All the previous testimony that was taken back in August  
8 regarding the depth of the well and the costs that is represented by the AFE and  
9 the formations to be produced from that testimony would all be the same?

10 A. That's correct.

11 JIM KAISER: We'd ask that that be incorporated for purposes of  
12 this hearing.

13 BENNY WAMPLER: That will be incorporated. Any questions from  
14 members of the Board?

15 JAMES McINTYRE: Did you say you broke Tract 16 into 16 and  
16 16A?

17 DON HALL: Yeah. Is it not showing on your plat?

18 BENNY WAMPLER: We're not seeing it.

19 MARY QUILLEN: Unh-huh.

20 BENNY WAMPLER: Nor the exhibit.

21 MARY QUILLEN: Unh-huh.

22 DON HALL: I wasn't sure that we had sent you a corrected plat or  
23 not. But here's the...that's the corrected plat and the new exhibits.

24

--

1 (Don Hall passes out a corrected plat and exhibits.)  
2 BENNY WAMPLER: Other questions from members of the Board?  
3 (No audible response.)  
4 BENNY WAMPLER: Do you have anything further?  
5 JIM KAISER: Mr. Chairman, we'd ask that the application for  
6 repooling be approved as submitted.  
7 BOB WILSON: Mr. Chairman, excuse me.  
8 BENNY WAMPLER: Mr. Wilson.  
9 BOB WILSON: Is 16A listed in your exhibits?  
10 MARY QUILLEN: Uh-huh.  
11 BENNY WAMPLER: Uh-huh, yeah.  
12 MARY QUILLEN: Uh-huh.  
13 JIM KAISER: Yeah.  
14 BOB WILSON: Okay.  
15 DON HALL: In addition to the...what I've said, Tract 4 on the plat  
16 is...is an overlap between...between two...between the Powers' tract and the  
17 Clinchfield tract and it's set out as a separate...separate tract because of the  
18 overlap. You'll see on Exhibit B, we have listed that portion as either Pine  
19 Mountain or the unknown heirs of  
20 W. B. Powers. So, that portion of the unit would be necessary to escrow, in  
21 addition to the Tract 5.  
22 BENNY WAMPLER: I'm going to ask you to go back and tell us  
23 what needs to be escrowed now and where we're going to find that. Are we going  
24

1 to find that on E?

2 JIM KAISER: We don't have an E. We do?

3 DON HALL: Yeah. You'll find that...find that on E.

4 JIM KAISER: So, 4 is either Pine Mountain or the unknown heirs of  
5 W. B. Powers.

6 DON HALL: Right.

7 JIM KAISER: And 5 is either the unknown heirs of W.---

8 DON HALL: It is the unknown---

9 JIM KAISER: It is the unknown heirs of W. B. Powers. So, we  
10 have...and then 16A are some unknowns. So, we have a conflict...potential  
11 conflicting claim in 4 and then unknowns in 5 and 16A, which will all be subject to  
12 escrow.

13 DON HALL: They're set out in Exhibit E.

14 BENNY WAMPLER: Other questions from members of the Board?

15 BILL HARRIS: Mr. Chairman.

16 BENNY WAMPLER: Mr. Harris.

17 BILL HARRIS: Just to ask a procedural question, in Tract 4 on  
18 Exhibit E where we have conflicting claimants there, I know this 1.72 is a not a  
19 major amount, but between Pine Mountain Oil and Gas and the unknown heirs. If  
20 that money is escrowed, what happens in the...you know, in the next...you know, it  
21 just sits there because we have those conflicting claimants, if we have unknown  
22 set? What do we do, I guess?

23 DON HALL: Until one...until one party or the other proves that their  
24

1 description...that they own it.

2 BILL HARRIS: So, really the (inaudible) is on Pine Mountain Oil and  
3 Gas---?

4 DON HALL: Yes.

5 BILL HARRIS: ---to show that it's...that it's theirs?

6 DON HALL: Yes.

7 JIM KAISER: To either find the unknowns and work out a voluntary  
8 agreement or to prove they're the owner of the conflicting claim.

9 BILL HARRIS: So, if that doesn't happen, the money just sits there  
10 then?

11 JIM KAISER: Right.

12 BENNY WAMPLER: Right, it stays in escrow.

13 BILL HARRIS: Okay, thank you.

14 BENNY WAMPLER: Other questions?

15 (No audible response.)

16 BILL HARRIS: Is there a motion?

17 JAMES McINTYRE: Motion to approve.

18 BILL HARRIS: Second.

19 BENNY WAMPLER: Second. Any further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval.

3 DON HALL: Thank you.

4 BENNY WAMPLER: The next item on the agenda is a petition from  
5 Hard Rock Exploration, Incorporated for pooling of conventional gas unit HRVAE  
6 #12. This is docket number VGOB-05-0920-1502. This was continued from  
7 November. We'd ask the parties that wish to address the Board in this matter to  
8 come forward at this time.

9 JIM KAISER: Mr. Chairman and members of the Board, Jim Kaiser  
10 and Jim Stephens on behalf of Hard Rock Exploration. We do have some revised  
11 exhibits.

12 (Jim Kaiser passes out revised exhibits.)

13 (Jim Stephens is duly sworn.)

14 BENNY WAMPLER: The record will show no others. You may  
15 proceed.

16

17

18 JIM STEPHENS

19 having been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KAISER:

22 Q. Mr. Stephen, if you'd state your name for the Board, who  
23 you're employed by and in what capacity?

24

--

1                   A.           I'm Jim Stephens. I'm employed by Hard Rock Exploration  
2 as Vice President of operations.

3                   Q.           And your duties include the land involved in this unit and in  
4 the surrounding areas?

5                   A.           Yes, they do.

6                   Q.           And you're familiar with Hard Rock's application to  
7 establish this drilling unit and pool any unleased interest for Hard Rock  
8 Exploration well #12, which was dated August the 19th, 2005?

9                   A.           Yes, I do.

10                  Q.           And does Hard Rock own drilling rights in the unit involved  
11 here?

12                  A.           Yes.

13                  Q.           And prior to filing of the application, were efforts made to  
14 contact each of the interest owners within the unit and an attempt made to work  
15 out an agreement for the development of the unit?

16                  A.           Yes.

17                  Q.           And what is the interest of Hard Rock under lease in this  
18 unit?

19                  A.           39.3%.

20                  Q.           And you're familiar with the ownership of drilling rights of  
21 parties other than Hard Rock underlying this unit?

22                  A.           Yes.

23                  Q.           And what percentage remains unleased to Hard Rock at  
24

1 this time?

2 A. 60.7%

3 Q. And are the unleased parties or the parties that we are

4 force pooling here set out in Exhibit...the revised Exhibit B-3, that being the 60.7%

5 that's...60.70% that's...of the other Ritter lease that CNX is the lessee on and

6 Eastern American is the sub-lessee on?

7 A. Yes.

8 Q. Okay. We don't have any unknown or unlocateable

9 parties?

10 A. No.

11 Q. Are the addresses, to the best of your knowledge, in

12 revised Exhibit B to the application the last known addresses for the respondents?

13 A. Yes.

14 Q. Are you requesting this Board to force pool all unleased

15 interest as listed at Exhibit B-3?

16 A. Yes.

17 Q. Now, are you familiar with the fair market value of drilling

18 rights in the unit here and in the surrounding area?

19 A. Yes.

20 Q. Could you advise the Board as to what those are?

21 A. We pay a five dollar bonus on a five year term with a one-

22 eighth royalty.

23 Q. In your opinion, do the terms you just testified to represent

24

1 the fair market value of and fair and reasonable compensation to be paid for  
2 drilling rights within this unit?

3 A. Yes.

4 Q. Now, as to the 60.7% that is "The other Ritter or the  
5 Unicon/Pocay lease", the CNX or Eastern American situation, do you agree that  
6 Eastern American be allowed the following statutory election  
7 options with regard to their interest within the unit: 1)  
8 Participation; 2) a cash bonus of five dollars per net  
9 mineral acre plus a one-eighth of eight-eighths royalty; or  
10 3) in lieu of a cash bonus and one-eighth of eight-eighths  
11 royalty share in the operation of the well on a carried basis  
12 as a carried operator under the following conditions: Such  
13 carried operator shall be entitled to the share of production  
14 from the tracts pooled accruing to his interest exclusive of  
15 any royalty or overriding royalty reserved in any leases,  
16 assignments thereof or agreements relating thereto of such  
17 tracts, but only after the proceeds applicable to his share  
18 equal, A) 300% of the share of such costs applicable to the  
19 interest of the carried operator of leased tract or portion  
20 thereof; or B) 200% of the share of such costs applicable to  
21 the interest of the carried operator of an unleased tract or  
22 portion thereof?

23 A. Yes.

24

--

1           Q.       Do you recommend that the order provide that  
2 elections by any respondent be in writing and sent to the  
3 applicant at Hard Rock Exploration, Inc., P. O. Box 13059,  
4 Charleston, West Virginia 25360, Attention: Jim Stephens,  
5 Regulatory?

6           A.       Yes.

7           Q.       Should this be the address for all  
8 communications with the applicant concerning any force  
9 pooling order?

10          A.       Yes.

11          Q.       Do you recommend that if a written  
12 election...that if not written election was properly made by  
13 a respondent, then such respondent should be deemed to have  
14 elected the cash option in lieu of participation, in other  
15 words, be deemed to have leased?

16          A.       Yes.

17          Q.       Should the unleased respondents be given 30  
18 days from the date they receive the recorded Board order to  
19 file their written elections?

20          A.       Yes.

21          Q.       If an unleased respondent elects to  
22 participate, should they be given 45 days to pay for their  
23 proportionate share of actual well costs?

24

--

1 A. Yes.

2 Q. Does the applicant expect any party electing  
3 to participate to pay in advance that party's share of  
4 completed actual well costs?

5 A. Yes.

6 Q. Should the applicant be allowed a 120 days  
7 following the recordation date of the Board order and  
8 thereafter annually on that date until production is  
9 achieved, to pay or tender any cash bonus or delay rental  
10 becoming due under the force pooling order?

11 A. Yes.

12 Q. Do you recommend that the order provide that  
13 if a respondent elects to participate but fails to pay their  
14 proportionate share of well costs, then that election to  
15 participate should be withdrawn and void?

16 A. Yes.

17 Q. Do you recommend that the order provide that  
18 where a respondent elects to participate but defaults in  
19 regard to payment of those well costs, then any cash sum  
20 becoming due to that respondent be paid within sixty days  
21 after the last date on which they could have made their  
22 payments?

23 A. Yes.

24

--

1 Q. And we do not have any unknown or  
2 unlocateable owners. So, we do not need to establish an  
3 escrow account for this unit, correct?

4 A. That's correct.

5 Q. And who should be named operator under any  
6 force pooling order?

7 A. Hard Rock Exploration, Incorporated.

8 Q. And what's the total depth of this well?

9 BENNY WAMPLER: Let me stop you right there. This  
10 is how our sheet looks. What has happened? You had a fold  
11 over, apparently, and somebody copied it. I mean, it's what  
12 it looks like. It cut off all of the pertinent information  
13 on our copy.

14 JIM KAISER: We'll provide you a new AFE.

15 BENNY WAMPLER: Yeah. And that's where you're  
16 going, I assume, right? Is every bodies like mine?

17 (Board members indicate in the affirmative.)

18 JIM KAISER: Do you want me to give you this one  
19 and that you all can look at?

20 BENNY WAMPLER: Yeah, let them look at it. Start  
21 with Ms. Barbar and just pass it around.

22 BOB WILSON: Mr. Chairman.

23 BENNY WAMPLER: Mr. Wilson.

24

--

1                   BOB WILSON: The original application contains a  
2 complete copy, a signed copy.

3                   BENNY WAMPLER: Okay. All right. We'll ask you to  
4 check as he does the testimony and we'll look at it then. Go  
5 ahead with you---.

6                   JIM KAISER: So, it just got doubled copied into  
7 the booklets, I guess.

8                   A.       The well depth is 5400 feet.

9                   Q.       Yeah, what's the depth of the well?

10                  A.       5400.

11                  Q.       And the estimated reserves for the unit?

12                  A.       300...300 million cubic feet.

13                  Q.       And are you familiar with the well costs for  
14 the proposed well?

15                  A.       Yes.

16                  Q.       Has an AFE been reviewed, signed and  
17 submitted to the Board as Exhibit C?

18                  A.       Yes.

19                  Q.       Was this AFE prepared by an engineering  
20 department knowledgeable in the preparation of AFEs and  
21 knowledgeable in particular in regard to well costs in this  
22 area?

23                  A.       Yes.

24  
--

1           Q.       In your opinion, does it represent a  
2 reasonable estimate of the wells costs?

3           A.       Yes.

4           Q.       Could you state for the Board both the dry  
5 hole costs and completed well costs for Hard Rock 12?

6           A.       The dry hole costs are \$191,872.50 and the  
7 completed well costs are \$410,441.50.

8           Q.       Do these costs anticipate a multiple  
9 completion?

10          A.       Yes.

11          Q.       Does your AFE include a reasonable charge  
12 for supervision?

13          A.       Yes.

14          Q.       In your professional opinion, would the  
15 granting of this application be in the best interest of  
16 conservation, the prevention of waste and the protection of  
17 correlative rights?

18          A.       Yes.

19          MR. KAISER: No further questions of this witness  
20 at this time, Mr. Chairman.

21          BENNY WAMPLER: On your exhibits...well, two  
22 things, and then I'll ask the Board members. Here, again,  
23 explain to us the relationship with the Carter in your---.

24

1           JIM KAISER: Oh, I've got that too. Here you go,  
2 here's the corrected application---.

3           BENNY WAMPLER: Okay.

4           JIM KAISER: ---with Carter taken off there.

5           BENNY WAMPLER: Do you have that, Mr. Wilson?

6           BOB WILSON: Yes, sir.

7           BENNY WAMPLER: In your exhibits, both B and B-3,  
8 you have an asterisk by leased. I'm not sure that... we  
9 didn't have, you know, the footnote to explain that. If you  
10 could go into a little bit more---.

11          JIM KAISER: Yeah, that represents the 60.7%  
12 of the unit that is an old preestablished unit where Island  
13 Creek/successor CNX was the original lessee and then through  
14 various assignments the operating rights and the sub-lessee  
15 is now Eastern American Energy. You can only drill one well  
16 in those units. CNX, and they can jump in if they need to,  
17 but we've talked with them and they recognize that it's a  
18 sub-lessee or not really farm out, but it's a sub-lessee.  
19 Eastern American has the election option. They just wanted  
20 to make sure that a  
21 5 1/2% override that they have that that interest got  
22 recognized in the exhibits.

23          BENNY WAMPLER: Questions from members of the  
24

1 Board?

2 BOB WILSON: Mr. Chairman.

3 BENNY WAMPLER: Mr. Wilson.

4 BOB WILSON: Just for the record, the numbers given  
5 for wells cost estimates in the testimony coincide with the  
6 exhibit that we have in the file.

7 BENNY WAMPLER: Do you have anything further?

8 JIM KAISER: We'd ask that the application be approved with the  
9 revised B and B-3, Mr. Chairman.

10 BENNY WAMPLER: Is there a motion?

11 JAMES McINTYRE: Motion to approve.

12 PEGGY BARBAR: I'll second.

13 BENNY WAMPLER: Second. Any further discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying yes.

16 (All Board members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. The next item on the  
20 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane  
21 unit C-50. This is docket number VGOB-06-0117-1556. We'd ask the parties that  
22 wish to address the Board in this matter to come forward at this time.

23 MARK SWARTZ: Mark Swartz and Les Arrington and Anita Duty.

24

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1                   BENNY WAMPLER: We'll go ahead and get Les and Anita sworn.

2   Are you going to testify in this...just Les? Okay, we'll just get Les sworn.

3                   (Leslie K. Arrington is duly sworn.)

4                   BOB WILSON: Mr. Chairman.

5                   BENNY WAMPLER: Mr. Wilson.

6                   BOB WILSON: Before we start this item, I got a letter from GEO  
7   Met, Inc., which was one of the parties being pooled in this application. I guess,  
8   I'll read for the record here. "GEO Met, Inc. did not receive notice of this hearing  
9   nor receive an AFE for the well until today, which was January the 9th, 2006.  
10   Equitable Production Company has a CBM lease from L. B. R. Holdings, LLC as  
11   shown in Exhibit EE of the petition. However, a review of record title in Buchanan  
12   County Courthouse, which show that GEO Met owns the right to develop that  
13   lease under the terms of a farm out agreement dated August the 16th, 2004. A  
14   memorandum of that farm out agreement is recorded in Buchanan County in Book  
15   496, page 674. CNX Gas Company, LLC referenced GEO Met in the tax  
16   identification exhibit had made error in not listing GEO Met as a party having the  
17   right to develop coalbed methane gas within the proposed unit. I respectfully  
18   request that the Virginia Gas and Oil Board continue this docket item for at least  
19   thirty days to give GEO Met an opportunity to evaluate its election options. GEO  
20   Met has requested a copy of the operating agreement that CNX proposes for this  
21   well. It is possible that GEO Met through its subsidiary, GEO Met Operating  
22   Company, Inc., may be better suited to drill and operate the well. If you have  
23   questions on this request..." and he gives his phone number. This is signed by

24

--

1 Joseph L. Stevenson, Land Manager of GEO Met Operating Company.

2 MARK SWARTZ: We've talked to them and we agreed to continue  
3 it for thirty days, obviously, with your blessing.

4 BENNY WAMPLER: So, that's continued.

5 MARK SWARTZ: And with regard to the next one as well G-11, that  
6 one needs to be continued for a month as well.

7 BENNY WAMPLER: All right. G-11, docket number VGOB-06-  
8 0117-1557 without objection will be continued.

9 MARK SWARTZ: The rest of them, we're ready to go on.

10 BENNY WAMPLER: The next item on the agenda is a petition from  
11 CNX Gas Company, LLC for pooling of coalbed methane unit AV-130. This is  
12 docket number VGOB-06-0117-1558. We'd ask the parties that wish to address  
13 the Board in this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: The record will show no others. You may  
16 proceed.

17

18 LESLIE K. ARRINGTON

19 having been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Les, is this a Middle Ridge unit?

23 A. Yes, it is.

24

--

1 Q. How many acres?  
2 A. 48.21.  
3 Q. And you're proposing to drill one well here?  
4 A. Yes, we are.  
5 Q. And is that...is that well location going to be in the drilling  
6 window?  
7 A. Yes, it is.  
8 Q. Who...who do you work for?  
9 A. CNX Gas Company, LLC.  
10 Q. And what do you do for them?  
11 A. Manager of Environmental and Permitting.  
12 Q. Okay. And did you either prepare the notice and  
13 application and related exhibits or have them prepared under your supervision?  
14 A. Yes, I did.  
15 Q. Okay. And, in fact, you signed the notice of hearing and  
16 the application, is that correct?  
17 A. Yes.  
18 Q. And you prepared the well cost estimate?  
19 A. Yes, I did.  
20 Q. Okay. What did you do to let people know that there was  
21 going to be hearing today with regard to this unit?  
22 A. We published in the Bluefield Daily Telegraph on  
23 December the 23rd, 2005 and mailed by certified mail return receipt on December  
24

1 the 16th, 2005.

2 Q. And have you filed proofs with regard to mailing and  
3 publication with Mr. Wilson?

4 A. Yes, we have.

5 Q. Okay. Do you want to add any respondents today?

6 A. No.

7 Q. Do you want to dismiss any?

8 A. No.

9 Q. Okay. Who's the applicant?

10 A. CNX Gas Company.

11 Q. And is CNX Gas Company, LLC a Virginia General  
12 Partnership?

13 A. Yes.

14 Q. Is it a wholly owned indirect subsidiary of Consol Energy,  
15 Inc.?

16 A. Yes.

17 Q. Is it authorized to do business in the Commonwealth?

18 A. Yes.

19 Q. Who is it that the application seeks to have appointed  
20 designated operator?

21 A. CNX Gas Company.

22 Q. Okay. Does CNX...has it registered with the DMME?

23 A. Yes.

24

--

1 Q. And has it...does it have a blanket bond on file as is  
2 required?

3 A. Yes, it does.

4 Q. And have you listed the contact data in the application in  
5 terms of how people might get a hold of the designated operator?

6 A. Yes, we have.

7 Q. Okay. And the exhibits here...if you look at the plat, this is  
8 a slightly smaller unit, isn't it?

9 A. Yes, it is.

10 Q. Is that because it's a boundary?

11 A. Yes, it is. It's the last unit up against the Oakwood Field.

12 Q. Okay. And you've shown...you've sized the window  
13 appropriately?

14 A. Yes, we did.

15 Q. What is that a 300 foot offset?

16 A. Yes, it is.

17 Q. Okay. And if you turn to Exhibit A, page two, would you tell  
18 the Board what interest you've been able to acquire and what interest you're  
19 seeking to pool?

20 A. We have 100% of the coal owner's claim to coalbed  
21 methane leased and 64.8501% of the oil and gas owner's claim to coalbed  
22 methane. We're seeking to pool 35.1499% of the oil and gas owner's claim to  
23 coalbed methane.

24

25

1 Q. Have...have you provided a well cost estimate?

2 A. Yes, we have.

3 Q. And what is that estimate?

4 A. It's \$238,049.66 to a depth of 2,404 feet. The permit

5 number is 7004.

6 Q. With regard to the folks that remain unleased of the CBM

7 interest, would you tell the Board what the terms of the leases generally have

8 been that you...you've used or entered into with people that you've actually been

9 able to lease from?

10 A. Yes. For a coalbed methane lease, it's a dollar per acre

11 per year with a five year paid up term with a one-eighth production royalty.

12 Q. And that...the per acre rental would seize on production

13 payments?

14 A. Yes, it does.

15 Q. Okay. And are you...would you recommend to the Board

16 that they use those terms and insert them in any order that they might enter with

17 regard to people who might be deemed to have been leased?

18 A. Yes, we would.

19 Q. Okay. With regard to this unit, I think there are a couple of

20 unknowns or unlocateables in Tract 2C, is that correct?

21 A. That's correct.

22 Q. So, that would require escrow for that reason?

23 A. Yes...yes.

24

1 Q. And then with regard to the more traditional conflicts, what  
2 are the tracts that require escrow?

3 A. 2A, 2B, 2C, 2D and 2E.

4 Q. And the escrow requirements are reflected by the Exhibit E  
5 that you have filed?

6 A. Yes, it does.

7 Q. Okay. Did anybody...did any folks have split agreements  
8 in this unit?

9 A. Yes, Tract 2C.

10 Q. Okay. And you filed an Exhibit EE with regard to those?

11 A. We have.

12 Q. And are you requesting that in any order might enter would  
13 reflect those split agreements and allow the operator to pay the people who have  
14 split agreements directly in accordance with the terms of their written agreement?

15 A. Yes.

16 Q. Is it your opinion that the plan for development, which is to  
17 drill one well in the window here and frac it, it a reasonable plan to develop the  
18 gas under this unit?

19 A. Yes, it is.

20 Q. And is it your opinion that if you combine the leasing  
21 activities that the applicant has succeeded in leasing and obtaining acreage with  
22 a pooling order, that the correlative rights of all owners and claimants would be  
23 protected here?

24

--

1           A.           Yes, it would.

2           MARK SWARTZ: That's all I have, Mr. Chairman.

3           BENNY WAMPLER: Questions from members of the Board?

4           (No audible response.)

5           BENNY WAMPLER: Is there a motion?

6           JAMES McINTYRE: Motion to approve, Mr. Chairman.

7           PEGGY BARBAR: I second.

8           BENNY WAMPLER: Motion to approve and a second. Any further

9 discussion?

10          (No audible response.)

11          BENNY WAMPLER: All in favor, signify by saying yes.

12          (All members signify by saying yes.)

13          BENNY WAMPLER: Opposed, say no.

14          (No audible response.)

15          BENNY WAMPLER: You have approval. The next item on the

16 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane

17 unit AY-123, docket number VGOB-06-0117-1559. We'd ask the parties that wish

18 to address the Board in this matter to come forward at this time.

19          MARK SWARTZ: Mark Swartz and Les Arrington again.

20          BENNY WAMPLER: The record will show no others. You may

21 proceed.

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23                                   LESLIE K. ARRINGTON

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, I'm going to remind you that you're still under oath.

A. Yes.

Q. You need to state your name again.

A. Leslie K. Arrington.

MARK SWARTZ: Okay. Mr. Chairman, I'd like to incorporate Mr. Arrington's prior testimony with regard to what he does, with regard to the applicant, the designated operator and the standard lease terms, if I could.

BENNY WAMPLER: That will be incorporated.

Q. What kind of unit is this, Les?

A. It's a Middle Ridge.

Q. How many acres?

A. 58.74.

Q. And how many wells?

A. One.

Q. Is it in the window?

A. Yes.

Q. Okay. The...what did you do to notify people that we were going to have a hearing today?

A. We mailed by certified mail return receipt requested on December the 16th, 2005 and published in the Bluefield Daily Telegraph on December the 23rd, 2005.

1 Q. And have you filed proofs with regard to mailing and  
2 publication with Mr. Wilson?

3 A. Yes, we have.

4 Q. Do you want to add any respondents today?

5 A. No.

6 Q. Do you want to dismiss any?

7 A. No.

8 Q. Would you tell the Board what interest you've been able to  
9 acquire in this unit and what interest you're seeking to pool?

10 A. We have leased 92.9958% of the coal owner's claim to  
11 coalbed methane and 99.6129% of the oil and gas owner's claim to coalbed  
12 methane. We're seeking to pool 7.0042% of the coal owner's claim to coalbed  
13 methane and 0.3871% of oil and gas owner's claim to coalbed methane.

14 Q. Have you provided a well cost estimate?

15 A. Yes, we have. It's \$241,775.92 to a depth of 2,432.7 feet.  
16 Permit number is 6475.

17 Q. Who prepared that estimate?

18 A. I did.

19 Q. Okay. And with regard to the rest of the...the application,  
20 the notice and the rest of the exhibits, did you either prepare them yourself or  
21 have them prepared under your direction?

22 A. Yes.

23 Q. Are there some escrow requirements here?

24

1 A. Yes, there are in Tract 3 for unknowns.

2 Q. Okay.

3 A. For the conflicts 1D and 3.

4 Q. Okay. And do we have some split agreements?

5 A. Yes, we do.

6 Q. And what tracts do those agreements affect?

7 A. 1A, 1B, 1C, 1D, 2A and 2B.

8 Q. Okay. And are you asking that if the Board pools this unit,

9 they allow you to pay the folks that are listed in Exhibit EE directly rather than

10 escrowing their funds?

11 A. Yes.

12 Q. Is this well drilled?

13 A. Yes, it is.

14 MARK SWARTZ: That's all I have, Mr. Chairman.

15 BENNY WAMPLER: Questions from members of the Board?

16 BILL HARRIS: Mr. Chairman.

17 BENNY WAMPLER: Mr. Harris.

18 BILL HARRIS: Yeah, when...when was the well drilled. I know

19 there's a permit number. I'm going to ask my annual question here.

20 LESLIE K. ARRINGTON: I normally have that on the bottom and I

21 don't have the date that it was drilled.

22 BILL HARRIS: Well, my annual question is, when are we going to

23 start seeing actual cost figures instead of estimates---.

24

1           LESLIE K. ARRINGTON: Okay.

2           BILL HARRIS: ---for these wells that have been drilled.

3           LESLIE K. ARRINGTON: Sure. If you'll notice on this one, and I  
4 hope it's that way---.

5           BILL HARRIS: Well, I know it says bold, but it's...I don't see  
6 anything bold.

7           LESLIE K. ARRINGTON: Then this well has just been drilled  
8 recently...very recently because how we doing our well costs is we get the up to  
9 date ledger sheets and do our well costs from it.

10          BILL HARRIS: Actually put those in?

11          LESLIE K. ARRINGTON: Uh-huh.

12          BILL HARRIS: Okay, okay, okay, thank you. That's all, Mr.  
13 Chairman.

14          BENNY WAMPLER: Other questions from members of the Board?  
15 (No audible response.)

16          BENNY WAMPLER: Do you have anything further, Mr. Swartz?

17          MARK SWARTZ: No.

18          BENNY WAMPLER: Is there a motion?

19          JAMES McINTYRE: So moved, Mr. Chairman.

20          BENNY WAMPLER: Motion to approve. Second?

21          PEGGY BARBAR: I second.

22          BENNY WAMPLER: Seconded. Any further discussion?  
23 (No audible response.)

24

1                   BENNY WAMPLER: All in favor, signify by saying yes.  
2                   (All members signify by saying yes.)  
3                   BENNY WAMPLER: Opposed, say no.  
4                   (No audible response.)  
5                   BENNY WAMPLER: You have approval. The next item on the  
6 agenda is a petition from CNX Gas Company, LLC for creation and pooling of  
7 coalbed methane unit TA-24. This is docket number VGOB-06-0117-1560. We'd  
8 ask the parties that wish to address the Board in this matter to come forward at  
9 this time.  
10                  MARK SWARTZ: Mark Swartz and Les Arrington.  
11                  BENNY WAMPLER: The record will show no others. You may  
12 proceed.  
13                                   LESLIE K. ARRINGTON  
14                                   DIRECT EXAMINATION  
15 QUESTIONS BY MR. SWARTZ:  
16                   Q.           Okay, Les, this is a well under the statewide spacing rules,  
17 correct?  
18                   A.           Yes, it is.  
19                   Q.           Okay. And if you look at the plat, it's a circular unit,  
20 correct?  
21                   A.           Yes, it is.  
22                   Q.           Okay. What's the radius?  
23                   A.           It's a 500 foot radius.

1 Q. And for permitting, the notice would be bigger?

2 A. Yes, it was. It was 750.

3 Q. Okay. Is this...is this well location outside of the field

4 rules?

5 A. Yes, it is.

6 Q. It's outside of an area covered by field rules?

7 A. Yes.

8 Q. Okay. How many acres does this circular unit contain?

9 A. 41.66.

10 Q. Okay. And here we need to both create the unit and then

11 pool it, is that correct?

12 A. That's correct.

13 Q. Okay. What did you do to let the folks listed in the notice

14 know that there was going to be a hearing today?

15 A. We mailed by certified mail return receipt requested on

16 December the 16th, 2005 and published in the Bluefield Daily Telegraph on

17 December the 22nd, 2005.

18 Q. And have you filed proofs with regarding to mailing and

19 publication with Mr. Wilson?

20 A. Yes, we have.

21 Q. Do you want to add any respondents today?

22 A. No.

23 Q. Do you want to dismiss any?

24

1 A. No.

2 Q. Okay. Would you tell the Board what interests you've  
3 been able to acquire and what it is you're seeking to pool?

4 A. Yes, on this we have 91.5266% of the coal owner's claim  
5 to coalbed methane leased and 91.5266% of the oil and gas owner's claim  
6 leased. We're seeking to pool 8.4734% of the coal, oil and gas owner's claim to  
7 coalbed methane.

8 Q. Okay. And have you provided a well cost estimate?

9 A. Yes, we have.

10 Q. What's the amount of that?

11 A. \$243,544.93 to a depth of 2,105 feet. Permit number is  
12 5240.

13 Q. Okay. Who prepared that estimate?

14 A. We did.

15 Q. Okay. And if you look at this estimate and compare it to  
16 the prior one, does it look like the bulk of the money is in bold?

17 A. Yes, it is.

18 Q. And that would represent that most of the money in the  
19 estimate here are reflecting actual costs?

20 A. Yes, they are.

21 Q. For example, drilling is an actual cost of 38,619.26?

22 A. Correct.

23 Q. Another example would be the frac treatment, what would  
24

1 that actual cost be?

2 A. It was \$463,320.21.

3 Q. As...obviously, this well has been drilled because you've  
4 got some actual costs.

5 A. That's correct.

6 Q. What was...what's the depth?

7 A. 2,105 feet.

8 Q. Okay. And the permit number was?

9 A. 5240.

10 Q. And the total costs, both actual and estimated, are what  
11 again?

12 A. \$243,544.93.

13 Q. Okay. There's no escrow requirements in this unit?

14 A. No.

15 Q. Is it your opinion that drilling this well and fracing it is a  
16 reasonable way to develop the coalbed methane in this proposed unit?

17 A. Yes, it is.

18 Q. And if you take the leasing efforts that you've been  
19 successful with regard to and combining that with the...with a pooling order, is it  
20 your opinion that the correlative rights of all claimants and owners would be  
21 protected?

22 A. Yes...yes, it would.

23 MARK SWARTZ: One other thing, Mr. Chairman, I'd ask that you

24

--

1 incorporate Mr. Arrington's testimony with regard to what he does, with regard to  
2 the applicant and designated operator and their qualifications and the standard  
3 lease terms from his testimony in the first hearing today?

4 BENNY WAMPLER: That will be incorporated. Your pooling is in  
5 Tract 1, was that correct?

6 MARK SWARTZ: Yes.

7 LESLIE K. ARRINGTON: Yes.

8 BENNY WAMPLER: Questions from members of the Board?

9 BILL HARRIS: Mr. Chairman.

10 BENNY WAMPLER: Mr. Harris.

11 BILL HARRIS: I hate to be the only one  
12 asking---

13 BENNY WAMPLER: That's all right.

14 BILL HARRIS: I guess I'm not the only one.

15 BENNY WAMPLER: No, I'm asking.

16 BILL HARRIS: I want to thank Mr. Arrington for providing us with  
17 some actual cost figures here. Thank you. I do have a question about the plat  
18 that is...I'm a little confused about this 500 foot radius versus 750 foot radius  
19 when permitted. I'm not sure what the discrepancy is or what---

20 MARK SWARTZ: You give notice for a well permit on a 750 foot  
21 radius. It was just a point of information. The statewide spacing creates 500 foot  
22 units. So, that's the distinction. When we---

23 BILL HARRIS: But the 750 is---?  
24  
--

1           MARK SWARTZ: Is a notice of requirement in front of Mr. Wilson.

2           BENNY WAMPLER: Notice requirement for permitting.

3           BILL HARRIS: Okay.

4           MARK SWARTZ: Yeah. So, you let people...I mean, I guess, the

5 part of that that's relevant to a pooling hearing, we've actually...people have...you

6 know, it's on their radar that there's going to be a well here beyond the size of this

7 unit. That was the only reason why I brought that up. But for pooling purposes,

8 you would pool people within the 500 foot radius.

9           BILL HARRIS: Thank you.

10          BENNY WAMPLER: Other questions from members of the Board?

11          (No audible response.)

12          BENNY WAMPLER: Do you have anything further, Mr. Swartz?

13          MARK SWARTZ: No.

14          BENNY WAMPLER: Is there a motion?

15          JAMES McINTYRE: So moved.

16          BILL HARRIS: I second.

17          BENNY WAMPLER: Motion to approve and a second. Any further

18 discussion?

19          (No audible response.)

20          BENNY WAMPLER: All in favor, signify by saying yes.

21          (All members signify by saying yes.)

22          BENNY WAMPLER: Opposed, say no.

23          (No audible response.)

24

1                   BENNY WAMPLER: You have approval. The next item on the  
2 agenda is a petition from CNX Gas Company, LLC for creation and pooling of  
3 coalbed methane unit TA-28. This is docket number VGOB-06-01117-1561.  
4 We'd ask the parties that wish to address the Board in this matter to come forward  
5 at this time.

6                   MARK SWARTZ: Mark Swartz and Les Arrington again.

7                   BENNY WAMPLER: The record will show no others. You may  
8 proceed.

9

10                                   LESLIE K. ARRINGTON

11                                   DIRECT EXAMINATION

12   QUESTIONS BY MR. SWARTZ:

13                   Q.           Les, you need to state your name again.

14                   A.           Leslie K. Arrington.

15                   Q.           You're still under oath?

16                   A.           Yes.

17                   MARK SWARTZ: Mr. Chairman, I'd like to incorporate from Mr.  
18 Arrington's prior testimony his testimony with regard to what he does, with regard  
19 to the applicant and designated operator and with regard to standard lease terms.

20                   BENNY WAMPLER: That will be incorporated.

21                   Q.           Did you either yourself prepare or caused to be prepared  
22 under your supervision, the notice of hearing, the application and the exhibits with  
23 regard to this matter?

24

--

1 A. Yes, I did.

2 Q. And what kind of a unit are we talking about here?

3 A. This is a statewide spacing unit of 41.66 acres.

4 Q. The same radius as the one that we just pooled moments

5 ago?

6 A. Yes.

7 Q. Okay. And there's a map of the...of the unit, correct?

8 A. Yes.

9 Q. And you've got the well right in the center?

10 A. That's correct.

11 Q. And the page before that, gives the people an indication of

12 where that well is in relation to some landmarks?

13 A. Yes.

14 Q. Okay. What did you do to tell the folks you've listed in the

15 notice that there was going to be a hearing today?

16 A. We mailed by certified mail return receipt requested on

17 December the 16th, 2005. We published in the Bluefield Daily Telegraph on

18 December the 22nd, 2005.

19 Q. And have you filed proofs with regard to mailing and

20 publication with Mr. Wilson?

21 A. Yes, we have.

22 Q. Okay. Do you want to add any respondents today?

23 A. No.

24

1 Q. Do you want to dismiss any?

2 A. No.

3 Q. Would you tell the Board what interests you've been able  
4 to acquire and what it is you need to pool?

5 A. Yes. We have leased 95.5353% of the coal, oil and gas  
6 owner's claim to coalbed methane. We're seeking to pool 4.4647% of the coal, oil  
7 and gas owner's claim to coalbed methane.

8 Q. It looks like this well has been drilled.

9 A. Yes.

10 Q. What's your estimate of costs including actual costs?

11 A. \$244,565.95 to a depth of 1,685 feet. The permit number  
12 is 5252.

13 Q. Okay. This one looks like there are no escrow  
14 requirements either, is that correct?

15 A. That's correct. There are not.

16 Q. Is it your opinion that to drill one frac well in this statewide  
17 spacing unit is a reasonable way to develop the coalbed methane under this unit?

18 A. Yes, it is.

19 Q. And is it your opinion that if you combine your leasing  
20 activities with a pooling order, the correlative rights of all owners and claimants  
21 would be protected?

22 A. Yes, it would.

23 MARK SWARTZ: That's all I have, Mr. Chairman.

24

1           BENNY WAMPLER: Questions from members of the Board?  
2           (No audible response.)  
3           BENNY WAMPLER: Is there a motion?  
4           JAMES McINTYRE: So moved.  
5           BENNY WAMPLER: Motion to approve.  
6           BILL HARRIS: Second.  
7           BENNY WAMPLER: Second. Any further discussion?  
8           (No audible response.)  
9           BENNY WAMPLER: All in favor, signify by saying yes.  
10          (All members signify by saying yes.)  
11          BENNY WAMPLER: Opposed, say no.  
12          (No audible response.)  
13          BENNY WAMPLER: You have approval.  
14          (No audible response.)  
15          BENNY WAMPLER: The next item on the agenda is a petition from  
16 CNX Gas Company, LLC for repooling of coalbed methane unit P-40. This is  
17 docket number VGOB-93-0216-0330-04. We'd ask the parties that wish to  
18 address the Board in this matter to come forward at this time.  
19          MARK SWARTZ: Mark Swartz, Les Arrington and Chris Looney.  
20          KYLE ROBINSON: Kyle Robinson.  
21          (Leslie K. Arrington passes out exhibits.)  
22          BENNY WAMPLER: Okay. The way we do this, we'll let Mr. Swartz  
23 go forward and make his presentation and you can ask questions. Then, of  
24

1 course, we've got your letter and I'll let you make a statement, okay?

2 KYLE ROBINSON: Okay.

3 (Everyone is duly sworn.)

4 MARK SWARTZ: Mr. Chairman, I'd like to incorporate Mr.

5 Arrington's prior testimony with regard to what he does and with regard to the

6 applicant, designated operator and standard lease terms.

7 BENNY WAMPLER: That will be incorporated.

8

9

10 LESLIE K. ARRINGTON

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Mr. Arrington, this unit was originally pooled in what year?

14 A. The first year was 1993.

15 Q. Okay. And have...has CNX and Mr. Robinson had ongoing  
16 discussions now, I guess, for roughly twelve years with regard to how many acres  
17 he has in the unit---?

18 A. Yes.

19 Q. ---and other issues?

20 A. Yes.

21 Q. Okay. Have...have you...and we'll get to that in a minute.

22 But is the reason for the repooling a remapping that you've done of Mr.

23 Robinson's tract and other tracts?

24

--

1 A. Yes, it is.

2 Q. Okay. And the percentages have slightly changed?

3 A. Yes.

4 Q. You don't have any new faces in the list of respondents,  
5 those people are already pooled and it's just their percentages have changed?

6 A. That's correct.

7 Q. In general, is it your view that Mr. Robinson's percentage  
8 needs to go up a bit?

9 A. Yes, it does.

10 Q. Okay. But not, for purposes of bringing the Board up to  
11 speed, has far as he wants it to go?

12 A. That's correct. It---.

13 Q. (Inaudible.)

14 A. It will be.

15 Q. Which is why presumably he's here today?

16 A. Yes.

17 Q. Okay. With regard to what you did to tell people there was  
18 going to be a hearing today, could you tell us what you did in that regard?

19 A. Yes, we mailed by certified mail return receipt requested  
20 on December the 16th, 2005. We published in the Bluefield Daily Telegraph on  
21 December the 28th, 2005.

22 Q. And have you filed proofs with regard to mailing and with  
23 regard to publication---?

24

1 A. Yes.

2 Q. ---with Mr. Wilson?

3 A. Yes, we have.

4 Q. Okay. Do you want to add any respondents today?

5 A. No.

6 Q. Do you want to dismiss any today?

7 A. No.

8 Q. Is this an Oakwood unit?

9 A. Yes, it is.

10 Q. How many acres?

11 A. 80.

12 Q. Okay. And there's...there's a mine plan and a mine

13 involved here because we've actually got several wells in the unit?

14 A. Yes.

15 Q. If you look at the plat, the plat shows that we've got...it

16 looks like two wells, one in the...what would be the southwest corner and one in

17 the northeast corner---

18 A. That's correct.

19 Q. ---basically?

20 A. Correct.

21 Q. The...when the unit was originally pooled, was there a cost

22 estimate provided?

23 A. Yes, it was.

24

1 Q. And have you included that with the exhibits?

2 A. I included the original cost estimate, so no one would be

3 treated unfairly.

4 Q. Any differently?

5 A. Any differently.

6 Q. Okay. And Mr. Albert happened to do that cost estimate?

7 A. Yes.

8 Q. But it's...it's in here and it was testified to by him in '93, I

9 guess?

10 A. Yes, sir.

11 Q. Okay. With regard to Exhibits...Exhibit B-3, obviously,

12 there's some changes there because the percentages have somewhat changed?

13 A. It did.

14 Q. Okay. The...are there some escrow requirements here?

15 A. Yes, there was.

16 Q. Okay.

17 A. Due to conflicts.

18 Q. And what...what would...what would the traditional conflicts

19 requirements...what...what tracts does that apply to?

20 A. 2L, 2M, 2N, 2O, 2P, 2Q and 3.

21 Q. Okay. Do we have some split agreements?

22 A. Yes. In 2A, 2B, 2C, 2D, 2E, 2F, 2H, 2I and 2J.

23 Q. And would you request that the Board in any order it might

24

1 enter allow the operator to pay the people who have split agreements directly  
2 rather than escrowing their money?

3 A. Yes...yes, we would.

4 Q. And in terms of what it is you're seeking to pool and what  
5 you've acquired by lease or purchase, what are those offers?

6 A. Okay. We have leased 99.9775% of the coal owner's  
7 claim to coalbed methane, 60.6275% of the oil and gas owner's claim to coalbed  
8 methane, we're seeking to pool .0225% of the coal owner's claim to coalbed  
9 methane and 39.3725% of the oil and gas owner's claim to coalbed methane.

10 Q. And the...just to put it in the record, although we referred to  
11 the exhibit, the well cost estimate that was originally provided, and obviously there  
12 were multiple wells in that, what was that number?

13 A. The total was \$425,550.20. The permit numbers was  
14 1,723, 1,650---.

15 Q. Actually, I think those are depths.

16 A. Depths, I'm sorry. The permit number is 2129 and 2142.  
17 I'm sorry.

18 Q. All right. Is it still your company's opinion and your opinion  
19 that it is a...that a reasonable method to recover the coalbed methane from this  
20 unit is the wells that have been in place now for some considerable time?

21 A. Yes, it has.

22 Q. Okay.

23 A. Yes, it is.

24

--

1 Q. And if we combine the leasing efforts and amended...and  
2 an amended pooling order will we continue to protect the correlative rights of all of  
3 the parties?

4 A. Yes, we will.

5 Q. Did...did you appoint someone in your company, under  
6 your supervision, to look at the mapping issues here with regard to Mr. Robinson?

7 A. Yes, we have.

8 Q. Okay. Who was that?

9 A. Chris Looney.

10

11 CHRIS LOONEY

12 having been duly sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Chris, you're under oath, okay?

16 A. Yes.

17 Q. Who do you work for?

18 A. I'm a self employed contractor for CNX Land.

19 Q. Okay. And how long have you done that?

20 A. Eight years.

21 Q. And before you worked for CNX Land, what did you do?

22 A. I worked for Buchanan County in the mapping office.

23 Q. And you worked in their mapping office?

24

--

1 A. (No audible response.)  
2 Q. You have to answer out loud.  
3 A. Yes, sir.  
4 Q. Okay. And would...would that experience in Buchanan  
5 County actually have been...have required you to do and compare maps?  
6 A. Yes.  
7 Q. And to make decisions with regard to how maps fit together  
8 and how tracts fit together?  
9 A. Yes.  
10 Q. Okay. Did you do some work at Les' request here?  
11 A. Yes.  
12 Q. Did you prepare a number...review a number of documents  
13 and prepare a number of maps?  
14 A. Yes.  
15 Q. What acres or acreage does Mr. Robinson claim he started  
16 with?  
17 A. 17.  
18 Q. Okay. Is...did you prepare this plat?  
19 A. Yes, sir.  
20 Q. Okay.  
21 (Mr. Swartz passes out a copy of the plat.)  
22 MARK SWARTZ: Before we get started or get further with Mr.  
23 Looney, I think it would be helpful to look at the well plat, which is also in your  
24

1 packet, which is kind of a mess. But we'll try to just focus you a little bit on how  
2 these maps fit into...how these maps fit in here. I have tried to outline in a dark,  
3 scribbling here the tract that he's going to be talking about that appears in the well  
4 plat. It's...it's the parent tract---

5 BENNY WAMPLER: Are you following this dotted line with dashes  
6 on it?

7 MARK SWARTZ: Yeah. I mean, if you take the first exhibit, and I'm  
8 going to give you some...if you take this exhibit that you got first---

9 BENNY WAMPLER: Right.

10 MARK SWARTZ: ---you can...you can recognize it in the plat.  
11 That's...that's the parent tract, just to kind of put this in conformity. What I'd like to  
12 do so that we're actually referring to stuff consistently, let's call this map, Plat A  
13 and we'll make another line---

14 BENNY WAMPLER: Will that...will that be an exhibit?

15 MARK SWARTZ: That's going to be an exhibit. We'll call this Plat  
16 A. Let's call this one, which has the little tracts inside of it, let's call this B. And  
17 then the third one, which has the tract that we're concerned with in blue and then  
18 again in red---

19 MARY QUILLEN: We don't have that one.

20 LESLIE K. ARRINGTON: Okay.

21 BENNY WAMPLER: We don't have that third one.

22 LESLIE K. ARRINGTON: I haven't done that one.

23 (Leslie K. Arrington passes out the exhibit.)

24

--

1                    MARK SWARTZ: The one that you're just getting then, let's call that  
2    Plat C.

3                    BENNY WAMPLER: Before we get too far down this trail, two  
4    things: One, need more information on his background, what qualifies him  
5    to...your witness, to make this...prepare these documents. The second one is, I'm  
6    assuming you're going to resolve the discrepancy we have between the 16.37  
7    acres and 17 acres.

8                    MARK SWARTZ: Oh, you bet. That's the point.

9                    BENNY WAMPLER: Okay.

10                  MARK SWARTZ: Well, I don't know if we'll resolve it, but we will tell  
11    you where we are and why.

12                  BENNY WAMPLER: Okay.

13                  Q.            Chris, let's...let's start with, just for illustration purposes,  
14    Plat C. When you look at the red outline, is that a plat that you did---?

15                  A.            Yes, sir.

16                  Q.            ---of the deed calls in the original "17 acre tract"?

17                  A.            Yes, sir.

18                  Q.            Okay. And if you come over to the corner here where the  
19    lines don't end at a point, what does that indicate?

20                  A.            That indicates a bust in the survey or not...a bad closure in  
21    the survey.

22                  Q.            Okay.

23                  A.            It's not a bad closure, but it doesn't close.

24

--

1 Q. And when surveys don't close, what is your experience  
2 with regard to whether or not the acreage often represented in the deed compares  
3 favorably to the acreage that you calculate when you plat the survey?

4 A. It doesn't match.

5 Q. Okay. Sometimes it's more and sometimes it's less?

6 A. Right.

7 Q. When you platted the deed calls of the alleged 17 acre  
8 tract here, how many acres do you come up with when you calculate what's inside  
9 the lines?

10 A. 16.64.

11 Q. And that's the red plat and the red acreage that's reported  
12 on what we've called Plat C today, correct?

13 A. Right.

14 Q. When you were at the county...at Buchanan County, what  
15 part of your time was spent doing plats, maps and deed comparisons?

16 A. 80%.

17 Q. Okay. In the eight years that you've been with Consol,  
18 what...what part of your time involves mapping and platting?

19 A. 100%.

20 Q. A 100...that's all you do?

21 A. That's all I do.

22 Q. Okay. When you...when you...do you do...are you involved  
23 in doing plats...drafting plats like the well plat that we see today?

24

1 A. No.

2 Q. Okay. But you get involved when there are problems with  
3 those?

4 A. Prior to the well plats.

5 Q. Okay. Okay. This well plat is an example of one where  
6 we've got a large number of tracts.

7 A. Right.

8 Q. In your experience, are...would you expect that all of these  
9 would have surveys?

10 A. No.

11 Q. Okay. Would you expect that some of them would?

12 A. Some.

13 Q. Okay. Did you attempt to determine whether any of the  
14 tracts in this unit that might be boundaries of the 17 acre tract had been  
15 surveyed?

16 A. Yes.

17 Q. Okay. What lines did you find surveys for?

18 A. From---.

19 Q. You might hold it up and kind of point, so the Board can  
20 see what...what you're talking about.

21 A. Right. We found surveys from Coke Raven Coal Company  
22 on the west side of the property. Consolidation Coal Company, that we work for,  
23 had surveys to the south. To the east, the railroad has a out sale here that  
24

1 established this eastern part of the property and also a portion of the northern line  
2 of the property.

3 Q. Okay. What use did you make of surveys of adjoining  
4 properties that share common lines when you did your work?

5 A. We used all that work with the surveys.

6 Q. Because they were actual surveys?

7 A. Right.

8 Q. And then did you adjust the other tracts to work in  
9 conjunction with the actual surveys?

10 A. Yes.

11 Q. Okay. If we're just staying with Plat C, what...what is the  
12 blue plat on Plat C? What does that represent?

13 A. That is the area, that after putting all the surveys together  
14 around the property, that's the area that was left that this 17 acre...supposedly 17  
15 acre had left to fit within.

16 Q. Okay. So, basically, just for purposes of comparison and  
17 staying with Plat C, when you platted the 17 acre tract you didn't get 17 acres, you  
18 got something less.

19 A. Right.

20 Q. And then when you used survey lines, actually done by  
21 surveyors on adjoining properties and replatted, you got slightly less again?

22 A. Right.

23 Q. In your opinion, what is the total acreage in the parent tract  
24

1 that we're dealing with here?

2 A. 16.37.

3 Q. Okay. Now, there were out sells from this parent tract, is

4 that correct?

5 A. Yes, sir.

6 Q. And if you look at Plat B, Mr. Robinson, in the plat that was

7 filed with the pooling today, actually has two tracts, correct?

8 A. Correct.

9 Q. And there's an index to the tracts and if we look in that

10 index, he has tracts identified as 2G, which is 9.97 acres, correct?

11 A. Correct.

12 Q. And he has another Tract 2K, which is .75 acres?

13 A. Correct.

14 Q. Is Tract 2K represented on Plat B?

15 A. Yes.

16 Q. Is it the little .75 acre tract here?

17 A. Yes.

18 Q. So, that's not an out sale, that's a tract that he still owns?

19 A. Right. The blue tracts are Mr. Robinson's tracts.

20 Q. Okay. Then the purple tracts, the .81, the 1.09 and the

21 3.75 are out sells?

22 A. Yes.

23 Q. So, basically, the odd shaped tract is the 9.97 acre tract

24

1 and then he still has the .75 acre tract and when you put those together, that's his  
2 total acreage?

3 A. Correct.

4 Q. And what...what is your calculation and opinion with regard  
5 to his total acreage then?

6 A. 10.72.

7 Q. Okay. And what does he claim he has?

8 A. 11.62.

9 Q. Let's go back to...well, and Plat A is simply...it's the same  
10 plat that's on Plat C in blue, but it doesn't have the red outline on it, correct?

11 A. Correct.

12 Q. When we look at this blue tract or Plat A, did you have a  
13 survey for the entire western boundary?

14 A. Yes, sir.

15 Q. So, if I colored the entire western boundary, if I'd done that,  
16 you had a survey for that line?

17 A. Yes.

18 Q. Whose survey was that?

19 A. That was Coke Raven Coal Company.

20 Q. Okay. Did you have a survey for the southern line?

21 A. Yes.

22 Q. For all of it?

23 A. Yes.

24

1 Q. So, have I colored or scribbled through the southern line?  
2 A. Yes.  
3 Q. You had a survey for that line?  
4 A. Yes.  
5 Q. Whose survey was that?  
6 A. That was Consolidation Coal Company.  
7 Q. Now, when we're talking about a survey, that's when  
8 somebody actually goes out on the ground and does the work and puts it on the  
9 ground?  
10 A. Right.  
11 Q. Did you have a survey for any other of these lines?  
12 A. Yes. The eastern line where the---.  
13 Q. Where the B is or the notch---?  
14 A. Yes, where the notch is for N & W or the railroad had a  
15 survey and a plat on record at the courthouse.  
16 Q. Okay. Did that continue off to the...to the west as well?  
17 A. Yes.  
18 Q. So, did you have a survey of all of the...a railroad survey of  
19 all of the adjoining lines to the north and east?  
20 A. Yes.  
21 Q. So, basically, all of the properties around the 17 acre tract  
22 had surveys on the ground that had been prepared that you were able to use?  
23 A. Yes.

24

--

1 Q. And what use did you make of those then in fitting the 17  
2 acre tract?

3 A. Well, we put those surveys on the map and the area that  
4 was left was given to the 17 acre.

5 MARK SWARTZ: Okay. That's all I have of Mr. Looney. Then I  
6 have a couple more questions of Mr. Arrington.

7 BENNY WAMPLER: Questions from members of the Board?

8 MARY QUILLEN: Mr. Chairman, I have a question. Was the 17  
9 acre that was owned by Mr. Robinson was...did you have a survey? Was there a  
10 original survey made of that?

11 CHRIS LOONEY: I have a deed description from...I'm not sure of  
12 the date. It was several years ago. But there is a deed description for the 17  
13 acres. I'm not sure if it is an actual survey or---.

14 MARY QUILLEN: Okay. That's...that's the question. So, you have  
15 no documentation that it was actually 17 acres with that deed description?

16 CHRIS LOONEY: Just the description in the deed. The deed has a  
17 metes and bounds description and it calls it 17 acres. But when you actually plot  
18 the deed description, it comes up to show you 16.64 acres.

19 MARY QUILLEN: But you don't have any documentation that it was  
20 actually plotted other than what's in that description?

21 CHRIS LOONEY: Yes, I guess. I don't...I'm not exactly sure what  
22 you're asking. I don't have any documentation that it was actually surveyed.

23 MARY QUILLEN: Surveyed, yes.  
24  
25

1                   CHRIS LOONEY: Yeah, right. I don't have any documentation of  
2 that.

3                   MARY QUILLEN: Okay. Thank you.

4                   BENNY WAMPLER: Following along that line, Mr. Looney, the  
5 description that's in the deed---.

6                   CHRIS LOONEY: Yes.

7                   BENNY WAMPLER: ---the calls that are in there, say again how you  
8 used those in your plot here. Did you..did you...and where they matched and  
9 where they didn't match.

10                  CHRIS LOONEY: Well, the red line...the red outline Exhibit C---.

11                  MARK SWARTZ: Plat C.

12                  CHRIS LOONEY: Plat C. The red line is the actual plat of the  
13 property that comes from the 17 acre deed. It was prior to Mr. Robinson's deed,  
14 several deeds back, but it is a description of the same property. Like I said, it had  
15 a metes and bound descriptions. When you plot those descriptions, it doesn't  
16 come back to a closed shape. It lacks some...it's a 160...it probably lacks a 140  
17 feet of closing. So, that error gives you less acres than the 17 acres.

18                  BENNY WAMPLER: So, going to that...staying with that thought,  
19 the 16.64 is what you got, according to this---?

20                  CHRIS LOONEY: Yes.

21                  BENNY WAMPLER: ---by plotting from his deed?

22                  CHRIS LOONEY: Right.

23                  BENNY WAMPLER: How do you get the 16.37?

24

--

1                   CHRIS LOONEY: Okay, that's...we took the surveys that we have of  
2 surrounding---.

3                   BENNY WAMPLER: Of other people?

4                   CHRIS LOONEY: Right. Those are...like I said, I don't know that  
5 there was an actual survey of his property, but I do know that these others were  
6 surveys. When we put those surveys on the map and the area that was left was  
7 16.37.

8                   BENNY WAMPLER: Other questions from members of the Board?

9                   KYLE ROBINSON: I---.

10                  BENNY WAMPLER: I'm going to get to you. I'm just...I'm just wait  
11 and see if the Board members have something right now. They may flush  
12 something of importance here for you.

13                  KYLE ROBINSON: Okay. I'm sorry.

14                  BENNY WAMPLER: That's all right.

15                  JIM McINTRYE: I have a question.

16                  BENNY WAMPLER: Yes, sir.

17                  JIM McINTRYE: Why are we listening to a case that involves the  
18 determination of the land owner?

19                  BILL HARRIS: You need to speak up.

20                  BENNY WAMPLER: That may be the result we have here. That  
21 may be the question.

22                  BILL HARRIS: I'm sorry, I didn't hear---.

23                  KYLE ROBINSON: That has already been decided.

24

--

1                   BENNY WAMPLER: He was asking why are we listening to a case  
2 that involves a legal dispute without---.

3                   MARK SWARTZ: Well, we need to give you a percentage. I mean,  
4 we can't pool something if we don't provide you with our best information with  
5 regard to acreage and percentages because people can't get their money. Now,  
6 you know, ultimately, if Mr. Robinson doesn't agree, he can go somewhere else to  
7 resolve a dispute as to a deed. But, I mean, we need to start...we need to give  
8 you a number, that we're prepared to stand behind. So, that's the point of this,  
9 and that we didn't just pick a number. But are we going to get...asking you to  
10 make some determination that we're right or he's wrong, no. But, I mean, I think  
11 a...we need to come in here and show that we did the homework so that our  
12 number is defenseable. That's why I'm raising that.

13                   BENNY WAMPLER: Mr. Robinson?

14                   KYLE ROBINSON: Well, I'll go back to the Board. The Board is the  
15 one that put me in the pool at 8.31 acres. So, therefore, I think that the Board is  
16 accused of trespassing.

17                   BENNY WAMPLER: Well, that's what we're here---.

18                   KYLE ROBINSON: And no...no...the first thing we need to do is get  
19 the...whichever docket number they want to use...I need to know which docket  
20 they're going to use...number they're going to use.

21                   BENNY WAMPLER: Well, we had...this is---.

22                   KYLE ROBINSON: You've got...you've got two numbers. We need  
23 to decide what docket number we're going to do.

24

--

1                   BENNY WAMPLER: We've just got one for today. It's 93-0216-  
2 0330-04---.  
3                   KYLE ROBINSON: That's not right.  
4                   BENNY WAMPLER: ---which is a repooling.  
5                   KYLE ROBINSON: That's incorrect.  
6                   BENNY WAMPLER: What's wrong with it?  
7                   KYLE ROBINSON: Because I put into the pool 03 instead of 04.  
8 You've got me down here today for 04. I was put in force pool in...let see,  
9 February the 14th, 199 and 3...'93.  
10                  BENNY WAMPLER: Mr. Wilson, do you want to  
11 explain---?  
12                  KYLE ROBINSON: And if I were put in over my objection, I told  
13 them...I explained to the Board. The Board went and ahead and put me in at 8.3.  
14 Okay, I was paid on the 8.3 in escrow. Okay, I've got eight...seven or eight  
15 different dockets from this CNX and all of this gas company. Eight different  
16 dockets...eight different acreage.  
17                  BENNY WAMPLER: Let Mr. Wilson explain the docket today and  
18 then we'll...we have your information here about the first one being at 1802 and  
19 then 1702 and then we'll ask those questions.  
20                  KYLE ROBINSON: Well, and another...another question I'd  
21 like...why am I being put in the pool now? I own the gas. Why I am being...I don't  
22 understand why I have to be in a pool.  
23                  BENNY WAMPLER: State Law, Mr. Robinson. The law says that if  
24

1 you don't...haven't resolved a lease or...then it goes into a pool where you have a  
2 dispute.

3 BOB WILSON: The numbers...the docket numbers are given to the  
4 original case, which was 93-0216-0330. That was the original application for  
5 pooling. By procedures established by the Board and used by us as staff of the  
6 Board, each subsequent occurrence of this particular docket number that was  
7 before the Board for these purposes was given an 01 or 02 or 03. The...this  
8 docket has been modified several times and has been disbursed...has been  
9 subject to disbursement from the account including yours recently. Each time that  
10 was brought before the Board, it was given another suffix, being 02, 03 and that  
11 left the next one as 04, which is why this one...it's still under the same docket  
12 number. But this was sort of a bookkeeping device that we use to keep up with  
13 the progression of things that occur before the Board.

14 KYLE ROBINSON: Well, let's turn back to that...this B thing right  
15 here.

16 BENNY WAMPLER: Yeah.

17 KYLE ROBINSON: I don't know where they came up with these  
18 figures here in that.

19 BENNY WAMPLER: Do you want to go ahead and explain where  
20 you got the---?

21 KYLE ROBINSON: They didn't get them from the courthouse  
22 because you have it right in your paper there that I give you of what the...what's  
23 on record. I mean---.

24

--

1                   BENNY WAMPLER: A copy of your deed?

2                   KYLE ROBINSON: No. Come on back on the last. What has been  
3 taken out.

4                   BENNY WAMPLER: Oh, okay, yeah.

5                   CHRIS LOONEY: The---.

6                   KYLE ROBINSON: Where did you...where did you come up with  
7 3.75 when it was only 3.70 taken out?

8                   CHRIS LOONEY: The area...after you put the area on the map with  
9 the computer, the computer puts...with the computer, you can then check the  
10 acreage with the computer doing area and the area that they show on the plat for  
11 the railroad comes up to be 3.75 instead of the 3.7.

12                  KYLE ROBINSON: That's funny. When I went to the courthouse,  
13 it's funny, it's 3.70 is what I'm...is what I'm saying. Where did you come up with  
14 the 3.75? Where did  
15 you---?

16                  MARK SWARTZ: He just told you.

17                  KYLE ROBINSON: Where did you...where did you come up with  
18 1.9? Where did you come up with 81?

19                  CHRIS LOONEY: After you plat those plats---?

20                  KYLE ROBINSON: Well, I can put anything together...I mean,  
21 I...you go by what's...what's on record and what's at the Courthouse. Right  
22 there's...right there's everything that you need to know if you look at it right close.

23                  MARK SWARTZ: Did you go by what's on record at the  
24

1 Courthouse?

2 CHRIS LOONEY: Yes, sir.

3 KYLE ROBINSON: Well---.

4 MARK SWARTZ: And then if it's wrong, what do you do about it?

5 KYLE ROBINSON: It's not wrong.

6 CHRIS LOONEY: Put it on---.

7 KYLE ROBINSON: The railroad is not wrong.

8 COURT REPORTER: Sir, you need to speak one at a time, okay.

9 CHRIS LOONEY: I put it on the way that the plat showed that are

10 on record in the Courthouse and the areas that I came up with the micro station

11 program from the computer gives me these acreages.

12 BENNY WAMPLER: If he...if he sold 3.7 and that's what the deed

13 shows that they bought, what he's saying is, you're coming up with a different

14 number.

15 CHRIS LOONEY: I understand what---.

16 BENNY WAMPLER: And you're saying that the plat with that deed,

17 a survey plat, showed 3.75 that the railroad had?

18 CHRIS LOONEY: The plat that the railroad had showed 3.7 and

19 what we come up with was 3.75.

20 BENNY WAMPLER: Okay. So, the railroad actually had 3.7?

21 CHRIS LOONEY: Yes.

22 BENNY WAMPLER: And that's what's confusing him---.

23 KYLE ROBINSON: Yeah.

24

1                   BENNY WAMPLER: ---because they're showing different... different  
2 numbers than he actually sold and what the plat was on what transactions  
3 occurred.

4                   CHRIS LOONEY: Right.

5                   KYLE ROBINSON: So, it don't add up. And the way I understand it,  
6 the deed has preference over anything when you go to the Court. The deed says  
7 17 acres.

8                   BENNY WAMPLER: Well, it said more or less. I think you certainly  
9 could lean toward the 16.64 if I were just---.

10                  KYLE ROBINSON: No, no, I just...let me show you.

11                  BENNY WAMPLER: No, I'm not...I've seen the deed. I've got it  
12 right here.

13                  KYLE ROBINSON: Yeah, but I'm going to show you something else  
14 that you need to know. This is...a certified surveyor does this too.

15                         (Kyle Robinson passes out an exhibit.)

16                  MARK SWARTZ: Do you have an extra copy of that?

17                  BENNY WAMPLER: Who did this, Mr. Robinson?

18                  KYLE ROBINSON: A guy up Lebanon, Mr. Hubbard.

19                         (Sharon Pigeon and Benny Wampler confer.)

20                  KYLE ROBINSON: And also, if you made that close, that would  
21 close on 17...over 17 acres. Who else needs a copy?

22                  PEGGY BARBAR: Thank you.

23                  KYLE ROBINSON: If it was to close, if it was to close, it would close  
24

1 at 17 acres. I also have this.

2 (Sharon Pigeon and Benny Wampler confer.)

3 KYLE ROBINSON: You have the same thing I do. If you can make  
4 it close, it would be over 17 acres.

5 (Sharon Pigeon and Benny Wampler confer.)

6 BENNY WAMPLER: Mr. Swartz, let me ask you a question, and you  
7 can ask whoever, I guess, from the standpoint of just talking to the Board here,  
8 and you're saying that you just need to get a number in the record for an estimate,  
9 realizing that from your standpoint you're putting on accurate data and from his  
10 standpoint, he's putting on accurate data and they differ.

11 But---

12 MARK SWARTZ: Well, I would just argue with that premise.

13 BENNY WAMPLER: Okay.

14 MARK SWARTZ: I think that we have put on accurate data  
15 consistent with adjoining properties, okay? I understand his position, but I don't  
16 agree that it's accurate. I mean, the thing that he just gave you is a plat of a  
17 collection of deed calls, which we all know doesn't close. When his... whoever did  
18 this plat, came up with---

19 KYLE ROBINSON: Well, yours don't either.

20 MARK SWARTZ: ---...came up with even less acreage than my guy.  
21 He's here telling you it's...I mean, what he has brought, he has got no survey. He  
22 has got a plat that doesn't close, which is the wrong acreage. Now, here's the  
23 problem, if you plat his deed calls that don't close, he's over on the railroad where  
24

1 I've circled, okay? I guess nobody owns this where I've circled on the other side.  
2 It's a no man's land because he's telling us, what, he doesn't own it? Well, the  
3 other people aren't claiming it. I mean, you have to look at property in this part of  
4 the world, you know. This isn't Wisconsin or Kansas. You have to look at it in the  
5 context where it sits. If your deed calls don't close or they're not congruent with  
6 your neighbors who have surveys. You need to make some judgments, which is  
7 what this gentleman has done to come to a reasonable accommodation of, okay,  
8 how do we look at all of the data that we have available and make it work in a way  
9 that we can defend and say, in my opinion, I think this is how this works?  
10 Now...so, that's what we're presenting. He's saying, I don't agree with you guys  
11 and he has an absolute right to do that. But we have an obligation to come to the  
12 Board with a number that we feel we can defend and is accurate in context  
13 because we have to pay this man. You know, when I finish with Les, his next  
14 royalty check, he's going to get another 100...another \$2100 in January, this  
15 month, the next royalty check that comes out, which is ILM's, who does our  
16 accounting, estimate for a catchup number because he's getting more acreage.  
17 Okay, he's still not going to be happy. But, I mean, you know, we need to pay  
18 people on an ongoing basis. You need to have orders that reflect the best data  
19 you have. If people still have disputes, I guess, they need to sue each other.  
20 But...I'm sorry I interrupted you. But, I mean, I...you know, I feel like we're here  
21 with strong data to make this work in the context of his neighbors. I mean, we  
22 can't just come here and have, you know, maps where...I mean, what's the deal  
23 with that?

24

--

1           KYLE ROBINSON: What's the deal with yours?

2           BENNY WAMPLER: But to do that...but to do---?

3           KYLE ROBINSON: What's the difference---?

4           BENNY WAMPLER: Kyle, let me just go through this. To do that

5 though, you adjusted things.

6           MARK SWARTZ: Well, you have to and we're acknowledging that.

7 We're acknowledging that.

8           BENNY WAMPLER: Okay. But you adjusted things.

9           MARK SWARTZ: Right.

10          BENNY WAMPLER: All right. And he has presented something

11 that, yeah, somebody may have adjusted, but he's...you know, what we have

12 before us is...just me personally as I see, the Board can make it's own call here,

13 he's presented information here that he has taken out deed books. He has talked

14 about what he sold. It reflects...I mean, you all agree that the deed book will show

15 3.70 and you make it 3.75 and just a few little things like that. It's enough

16 discrepancy to say that it's not completely accurate.

17          MARK SWARTZ: Well, right.

18          BENNY WAMPLER: Okay. So, given that, that's where I want to

19 get at, both parties here, it's not completely accurate either way here.

20          MARK SWARTZ: The problem you're going to have...where you're

21 headed, and I don't think Mr. Robinson understands this and maybe you do, but I

22 need to point this out, if we're going to say that none of these numbers work,

23 we're escrowing everybody's money forever.

24

--

1                   BENNY WAMPLER: Well, that's what it would lead to.

2                   MARK SWARTZ: Right. So, you know, the checks that you've been  
3 getting are going to stop.

4                   KYLE ROBINSON: Oh, no.

5                   MARK SWARTZ: The checks that these...oh, yeah. The checks  
6 that these people...his neighbors are getting and then you're going to have to  
7 make some kind of a judgment as a Board, we're going to carve out some larger  
8 escrow area here and we're going to tell the operator to just pay that money into  
9 escrow and these people are going to fight over their deeds. I mean, that's  
10 where this is headed. Mr. Robinson needs to understand that that is where this is  
11 headed. I mean, if we can't reasonably resolve deed inconsistencies and  
12 boundary inconsistencies, then the solution is in escrow of everybody's money  
13 because you don't know what to pay anybody.

14                  BENNY WAMPLER: But when you come up with 16.64, saying that  
15 that's what his plots out to be---.

16                  MARK SWARTZ: Right.

17                  BENNY WAMPLER: ---then you're going back and adjusting it to  
18 other boundaries.

19                  MARK SWARTZ: No, that's after...the 16.37 is adjusting to fit the  
20 neighboring boundaries.

21                  BENNY WAMPLER: That's what I mean. To come up with, that's  
22 how---.

23                  MARK SWARTZ: Right.

24

1           BENNY WAMPLER: ---you came up though with 16.37.  
2           MARK SWARTZ: You got it.  
3           BENNY WAMPLER: You adjusted it to the other boundaries.  
4           MARK SWARTZ: And you have to do that. In other words, your  
5 numbers aren't going to work at all.  
6           BENNY WAMPLER: But you're not adjusting their boundaries,  
7 you're adjusting his.  
8           KYLE ROBINSON: That's correct.  
9           MARK SWARTZ: They have surveyed boundaries. Where is his  
10 survey? All of the boundaries that we have used---.  
11          KYLE ROBINSON: I should have brought you a survey.  
12          MARK SWARTZ: Well, you should have. All of the boundaries that  
13 we've used, and I covered that in Mr. Looney's testimony, everyone of these  
14 boundaries on this map is a surveyed boundary, the railroad, Coke Raven and  
15 CNX. They're all surveyed boundaries. So, if you're going to put stuff in a scale  
16 and you're going to put a computer program that plats deed calls that don't close  
17 versus a survey, I think you pick the survey. Our 13.37 was arrived at using  
18 surveyed boundaries. Now, you may not agree with that, but I mean in terms of  
19 what's the best evidence of how this stuff fits together, a survey is the best  
20 evidence. Now, you know, we might...sometimes we come here and we've got  
21 one survey and we need three and then we're really up the creek. You know, as  
22 luck would have it here, you know, he found three surveys. I think that it's a pretty  
23 good number. But, you know, I'm not on the Board. I'm just telling you what  
24

1 we've got.

2 KYLE ROBINSON: Well, it's done settled that I own 17...the original

3 17 acres.

4 MARK SWARTZ: No, it's not.

5 KYLE ROBINSON: It has been settled in the Court.

6 MARK SWARTZ: Really!

7 KYLE ROBINSON: Yeah.

8 MARK SWARTZ: Well, you need to show me a judgment that says

9 that.

10 KYLE ROBINSON: Well, whenever...whenever I started this

11 thing...we started this thing, the Judge put us in...put in that 17 acres. If you want

12 to go back, that's fine. I mean, if we have to go back, we'll go back to Grundy.

13 MARK SWARTZ: I mean, it's up to you. It's your

14 call---.

15 MARY QUILLEN: This---.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 KYLE ROBINSON: I want it to be put in the record now that I want

19 to settle...settle it.

20 BENNY WAMPLER: Hold on just a second. We've got a question.

21 MARY QUILLEN: Mr. Chair...on this that you handed

22 us---.

23 KYLE ROBINSON: Uh-huh.

24

~ ~

1                   MARY QUILLEN: ---you said that someone had put this together for  
2 you.

3                   KYLE ROBINSON: That's correct, yeah.

4                   MARY QUILLEN: And it has 16.59 acres.

5                   KYLE ROBINSON: That's correct. That's taken the same thing he  
6 does...the same figures.

7                   MARK SWARTZ: Except you got less than we got.

8                   KYLE ROBINSON: So...but you're taking out more. You're taking  
9 out, what, 3...3.75 for the railroad and you'uns take out an 1.9 and a .81, which is  
10 not correct. If you take out the correct numbers, okay, we'll...I'll agree, yeah.

11                  MARK SWARTZ: It's not up to me. I mean, I can't horse trade your  
12 neighbor's property interest. I mean, I can't make you agree and can't deed away  
13 their property. That's the problem here. You know, we've presented testimony  
14 with regard to surveyed lines that this is where you get...that's the best number I  
15 can give you.

16                  BENNY WAMPLER: What we're trying to do is prevent you from  
17 having it all be held in escrow period, okay? That's what the discussion here is  
18 about.

19                  KYLE ROBINSON: Well, I don't see how you can hold it.

20                  BENNY WAMPLER: Well, if we...if we were to say to that we can't  
21 resolve this...if we can't come up with a...then it's escrowed. That's what it's all  
22 about. So, what...and we're not trying to, in any of this...and I'm speaking here,  
23 the Board members can say...but any of this we're talking about...in your own  
24

1 numbers, what was it 16.59 and theirs is 16.37?

2 MARK SWARTZ: Right.

3 BENNY WAMPLER: So, you've got .22 in dispute here.

4 KYLE ROBINSON: Yeah, but you've got the other acreage, what

5 has been taken out...taken out by a deed now.

6 N & W took 3.7. If we use those figures, okay, we'll take it out like that. But I'm

7 not going to take...that's not...that's not correct. If you look right there, N & W

8 took out 3.7 and the Keen, which belongs to N & W, took out another acre and the

9 Charlie Presley place, which belongs to CNX now or Consol, they took .68. What

10 does that leave? What is that? What figure did you come up with? 5 something?

11 BENNY WAMPLER: 5.38 from what you said. I don't know what

12 that does for you.

13 KYLE ROBINSON: That's 5.28, is that right?

14 PEGGY BARBAR: .38

15 BENNY WAMPLER: It's 5.38 on the numbers you called out.

16 KYLE ROBINSON: 5.38. Okay, take the 5.38, I'll even go with his

17 figures. The 6---.

18 MARK SWARTZ: It's less than what we're saying.

19 BENNY WAMPLER: It's less though, Kyle.

20 MARK SWARTZ: I mean, what's the point of that?

21 KYLE ROBINSON: Do what now?

22 BENNY WAMPLER: I mean, that's...that's hurting you, okay.

23 KYLE ROBINSON: No.

24

1           MARK SWARTZ: Yeah!

2           BENNY WAMPLER: Yeah, it does.

3           MARK SWARTZ: Our totals is 11---.

4           KYLE ROBINSON: No.

5           MARK SWARTZ: I mean, of his interest.

6           CHRIS LOONEY: 10.72.

7           MARK SWARTZ: 10...what is it?

8           CHRIS LOONEY: 72...10.72.

9           MARK SWARTZ: 10.72. And he's less than that when you do his

10 math.

11           BENNY WAMPLER: Not if you go with how he's talking about...not

12 if you go with his 16.59.

13           KYLE ROBINSON: No, I'm a little bit smarter than that. I went to

14 school for two or three days.

15           PEGGY BARBAR: He's 11.62---.

16           BENNY WAMPLER: Yeah.

17           PEGGY BARBAR: ---and you're 10.72.

18           BENNY WAMPLER: Yeah, that's 11...yeah.

19           KYLE ROBINSON: I went to school two or three days.

20           BOB WILSON: Mr. Chairman.

21           BENNY WAMPLER: Mr. Wilson.

22           BOB WILSON: I'll throw another monkey wrench in here.

23           BENNY WAMPLER: Thank you.

24

1 (Laughs.)

2 BOB WILSON: I thought you would appreciate that. Mr. Robinson  
3 has recently received a disbursements based on his ownership of 8.31 acres in  
4 this unit. So, whether he ends up owning 10.72 or 11.62, there is more payment  
5 due him---

6 KYLE ROBINSON: That's right.

7 BOB WILSON: ---from the disbursements that has already been  
8 made.

9 BENNY WAMPLER: Right. That's what we're talking about. He'll  
10 get that...that would be retroactive.

11 KYLE ROBINSON: I also have about 3 more acres to come from  
12 escrow money. I'm willing to settle it...I'll use your figures, the 16.64 and take the  
13 5.38 from it.

14 MARK SWARTZ: You know, I can't settle other people's interest.

15 KYLE ROBINSON: Well, you ain't going to settle it all. In other  
16 words, you don't want to settle it.

17 MARK SWARTZ: You're talking about my money. This is other  
18 people's money. You know, it's royalty interest payable to your neighbors. I  
19 mean, I can't horse trade the numbers.

20 KYLE ROBINSON: Well, why did you come up...why did you bring  
21 this figure here for?

22 MARK SWARTZ: Because we need to know what to pay.

23 KYLE ROBINSON: That's exactly what I'm trying to tell you. Say if  
24

1 you came up with 16.64 acres and take the 5.38 from it, which was sold off. How  
2 simple can that be? I mean...I mean, we'll go down here at the grade school and  
3 get two year old child and figure it up.

4 MARK SWARTZ: Well, I mean, we've got to make these lines work  
5 somehow and get a credible percentage and that's the point of this. If you can't,  
6 then we're going to have to figure out how much of this area we're going to have  
7 to escrow because these lines overlap all over the place. I mean, we've done it  
8 before. You know, we can go back and figure it out. But---

9 KYLE ROBINSON: And do you think that would be fair, Mr.  
10 Wampler, to use his figures?

11 BENNY WAMPLER: I'm trying to figure out what kind of questions  
12 to ask his witness over here. Do you understand what Mr. Robinson is  
13 proposing?

14 CHRIS LOONEY: Yes, sir.

15 BENNY WAMPLER: He's proposing within this acreage of the  
16 16.64, you take out what he actually sold---

17 CHRIS LOONEY: By deed?

18 BENNY WAMPLER: ---by deed and you verified those deed  
19 amounts when you did this other plot.

20 CHRIS LOONEY: Yeah. One thing I can say about the difference in  
21 the numbers. With all of these out sells, there are plats. With those plats, you  
22 have to use natural calls to locate those like creeks, streams, roads, hillside and  
23 points. I mean, you know, there's numerous things that you use to locate a deed.

24

--

1 In looking at those plats and locating your line your line on our property maps,  
2 gives you these areas. These are...I didn't just throw these on there, you know, to  
3 be an area. These are actual plats. When those plats are put on here, I can't say  
4 why the numbers don't match. But the areas that show on those plats and the  
5 areas that I have here do match. I don't know why the discrepancy in the  
6 numbers. But those areas are the same areas as shown on the plats.

7 BENNY WAMPLER: Well, the Board is not going to resolve that  
8 discrepancy. It can't...it can't resolve it. The Board has got to deal with whether  
9 or not we go ahead and deal with this application on its face, based on your  
10 testimony, recognizing that we've got an issue ongoing and leave that to the  
11 Courts to decide or whether or not we say it's all up in the air and it's all  
12 escrowed.

13 KYLE ROBINSON: Here's the sad part about it, I'm paying taxes on  
14 this property. If I'm paying taxes, it belongs to me.

15 BENNY WAMPLER: I agree with that. I don't think they would  
16 dispute that you're paying taxes on it. That's how they came up with it. The  
17 difference is that they've got surveyed plats all around you.

18 KYLE ROBINSON: I know, but I'm paying taxes on it.

19 BENNY WAMPLER: I under---.

20 KYLE ROBINSON: And that man down there that has done  
21 the...done the survey for the county. He just said he did.

22 BENNY WAMPLER: I understand that.

23 KYLE ROBINSON: He testified he worked for the county. He's the  
24

1 one that surveyed this out. All I'm asking...I would...I would try to meet him  
2 halfway using his figures.

3 MARK SWARTZ: I guess, you're going to have to escrow  
4 everywhere a line crosses. I don't know how many acres that's going to be. I  
5 mean, we have to do the math. But everywhere... everywhere there's a line that  
6 crosses here, that acreage would have to be escrowed.

7 BENNY WAMPLER: The blue and the red you're talking about?

8 MARK SWARTZ: Yeah.

9 MARY QUILLEN: Mr. Chairman---

10 BENNY WAMPLER: Yes, Ms. Quillen.

11 MARY QUILLEN: ---I have, I guess, more of a statement than a  
12 question or maybe it is a question to you. If...in order to settle this, then all of  
13 these three property owners, where these lines cross over, would have to agree---  
14 ?

15 MARK SWARTZ: Or go to Court.

16 MARY QUILLEN: ---or go to Court to---?

17 MARK SWARTZ: And it's more people than that, unfortunately. It's  
18 like a ton of people.

19 MARY QUILLEN: All of the people that's in this?

20 MARK SWARTZ: I mean...yeah, because---

21 MARY QUILLEN: Okay.

22 MARK SWARTZ: ---this is...this map is way simpler than where we  
23 are.

24

--

1           MARY QUILLEN: Right. That's---.

2           MARK SWARTZ: So, it would be a lot---.

3           MARY QUILLEN: So, it would be all of these people including---?

4           MARK SWARTZ: Well, it would be a lot---.

5           MARY QUILLEN: Uh-huh.

6           MARK SWARTZ: ---of people. I mean, it would be all of his

7 neighbors, which are...which---.

8           MARY QUILLEN: Uh-huh. That would be---.

9           MARK SWARTZ: ---is a bigger number than is shown on this

10 simplified map.

11          MARY QUILLEN: Right. Rather than just these three people---?

12          MARK SWARTZ: Correct.

13          MARY QUILLEN: ---that we have talked about here.

14          MARK SWARTZ: Yeah. And it would also be the people inside---.

15          MARY QUILLEN: Uh-huh.

16          MARK SWARTZ: ---you know, the acreage differential there as

17 well---.

18          MARY QUILLEN: Uh-huh.

19          MARK SWARTZ: ---which we need to look at when we're done with

20 this. You know, when people have...and we had protracted boundary issue years

21 ago...I mean, times flies. But, I mean...and we wound up escrowing a boundary

22 that was in dispute. Danny McClanahan, I think, was the fellow that...but...I think

23 it was, right?

24

1                   LESLIE K. ARRINGTON: Right.

2                   MARK SWARTZ: But...I mean, there are ways to deal with this so  
3 that peoples, you know, money can be escrowed and they can duke it out, you  
4 know, when they get around to it or settle it.

5                   MARY QUILLEN: Uh-huh.

6                   MARK SWARTZ: But...but wherever there is a boundary dispute  
7 and here, obviously, you know, this thing is all over the place.

8                   MARY QUILLEN: Right. Right, yeah.

9                   MARK SWARTZ: And then there's some interior tracts too, which  
10 we need to...but you can do that. I mean, we can do the math and do it.

11                  MARY QUILLEN: And each of these people affected within  
12 that...those boundaries----?

13                  MARK SWARTZ: Would...would have a claim to those pieces.

14                  MARY QUILLEN: Exactly. So, those pieces would go into escrow  
15 until there was a settlement?

16                  MARK SWARTZ: Right, uh-huh. I mean, basically, Mr. Robinson  
17 would get...would not be subject to escrow on the pieces of the blue tract---.

18                  MARY QUILLEN: Uh-huh.

19                  MARK SWARTZ: ---that are inside the blue tract or the red tract.  
20 So, you know, you could kind of shade this---.

21                  MARY QUILLEN: Right.

22                  MARK SWARTZ: ---you know, and his interest would go down and  
23 theirs would go down, his neighbors would go down and those pieces would be  
24

1    escrowed.

2                   PEGGY BARBAR: Which all total of about .90 acres, roughly, if you  
3    go by Mr...Mr. Robinson's figures.

4                   MARK SWARTZ: No, because this is...this is probably maybe a half  
5    of an acre here, this overlap.

6                   KYLE ROBINSON: Well, whose survey is that?

7                   MARK SWARTZ: This is, you know, maybe a third of an acre. I  
8    mean, this...I don't know what that is. You've got to add up all of these...it's...it's a  
9    fair amount of acreage. It's several acres.

10                  KYLE ROBINSON: It don't matter how...you can bring a map up  
11   here and it don't matter why. I have so many acres. Now, where is my acres at?  
12   Why don't you go ahead and pay me for what I've got? That's my question.

13                  MARK SWARTZ: Well, that's sort of a silly observation. I mean,  
14   there are---.

15                  KYLE ROBINSON: Well---.

16                  MARK SWARTZ: We all know that there are tons of deeds that  
17   represent that somebody bought a hundred acres and they wound up getting  
18   sixty. I mean, that...you know, we all know that there are problems with those  
19   kinds of things. We're trying to figure out on the ground how it works. We've  
20   done the best we can to come up with a way to fit all of these tracts with the best  
21   information we have, you know, which apparently doesn't work for Mr. Robinson  
22   and then, I guess, the alternative to that it, then we need to figure out what we  
23   need to escrow because you're not going to resolve a property dispute.

24

--

1                   MARY QUILLEN: And there were prior owners before  
2 he---?  
3                   MARK SWARTZ: Right.  
4                   MARY QUILLEN: Oh, okay. So, probably that---.  
5                   MARK SWARTZ: Yeah. I mean, the 17 acres was somebody else's  
6 tract before it came to him.  
7                   MARY QUILLEN: Uh-huh. So, you don't really have any history of  
8 that...what or how this was---?  
9                   MARK SWARTZ: We don't have a survey for that  
10 tract---.  
11                  MARY QUILLEN: Right.  
12                  MARK SWARTZ: ---which is a big problem.  
13                  MARY QUILLEN: Uh-huh.  
14                  BENNY WAMPLER: Yeah, we're not going to...the Board is not  
15 going to try even attempt to resolve the property dispute. What we're trying to do  
16 is see if we could...if we could work around to an agreement. What we have  
17 before us today is we have an application with a witness and we have an  
18 opposition with information disputing that. We have to make a decision about the  
19 weight that we're going to put on the evidence that we have before us.  
20                  BOB WILSON: Mr. Chairman.  
21                  BENNY WAMPLER: Mr. Wilson.  
22                  BOB WILSON: Let me go back to the prior escrow situation as well.  
23 There have actually been, I think, three disbursements from this particular unit.  
24

1                   BENNY WAMPLER: I understand.

2                   BOB WILSON: Other tracts including Mr. Robinson's tract, and I  
3 suspect that some of these are going to be affected if you go back to escrow as  
4 well. That money has already gone from escrow and, as I said, somebody is  
5 going to be deserving less and somebody is going to be deserving more. There's  
6 going to be acreage to be escrowed that probably wasn't before or that has  
7 already been paid out. It's a good thing that the railroad runs through here or we  
8 would have a major train wreck here somewhere.

9                   KYLE ROBINSON: Well, here's my question, why did you put me in  
10 8.3 acres escrowed? All right, now, you come back and you send me another  
11 docket, which makes it about 8, now you say I've got 10.72. Why wasn't I put in---  
12 ?

13                  BENNY WAMPLER: Well, I guess...I guess, those others were  
14 estimates and this is a better estimate is what I've heard.

15                  KYLE ROBINSON: Eight different packages with eight different  
16 amount of acres I had...acres I had. Why did I get...I should have got one correct  
17 one and that was it.

18                  BENNY WAMPLER: Mr. Swartz, do you want to summarize your  
19 proposal?

20                  MARK SWARTZ: Well, the testimony is to the effect that when you  
21 take surveys of all of the lines of the 17 acre tract and you put it on the ground, it's  
22 16.37 acres. The acreages are on Plat B that you have to subtract. I mean, to  
23 make the deed work with the surveyed lines of all of the neighbors, that's where  
24

1 you wound up. Clearly, you know, Mr. Robinson thinks he has got more acres  
2 than we do. You know, people are entitled to have their opinions. I mean, I...and,  
3 you know, the only person that's going to resolve an opinion like that is a Court. If  
4 we want to pay out as much royalty as we can, and the Board considers that  
5 evidence that we've presented to be reasonable, I guess, you can revise the  
6 percentages accordingly. If you don't have a comfort level with that, I think your  
7 choice is...that we need to fix this and your choice is we need to then come back  
8 and tell you what the overlap escrow number is. Just to put this in focus, you  
9 know, we're going to pay the royalty to somebody no matter what. So, I mean, we  
10 have no dog in the hunt as to how this works. It's just...you know, as a general  
11 principal, I think all of us would like to see people receive their money now rather  
12 than later. So, the question is do you want to escrow...get ourselves in a situation  
13 or do we have to be in a situation where we're escrowing more money than we  
14 need to and, I guess, that's your call. I mean, that's where I think you are. I think  
15 it's clear that we need to do something here and the question is are we going to  
16 go with Mr. Looney's evaluation or are we going to escrow some additional...?

17 BENNY WAMPLER: What's the Board's pleasure? Is there a  
18 motion?

19 JIM McINTRYE: I make a motion that we approve the force pooling  
20 and we set the acreage as presented CNX Gas Company.

21 BENNY WAMPLER: Is there a second?

22 (No audible response.)

23 BENNY WAMPLER: The motion dies for a lack of a second. Is  
24

1   there another motion?

2                   BILL HARRIS: Mr. Chairman, what's our liability, if we do decide  
3   that we're going to go with that...now, the acreage you're talking the 16.37 or  
4   16.64? I mean, it...well, I guess the motion dies.

5                   JIM McINTRYE: The liability...the Board does not have liability in  
6   this issue when it comes to who has to correct acreage figure. That's---.

7                   BILL HARRIS: Well, I'm just wondering if the motion included  
8   acceptance of an acreage figure.

9                   JIM McINTRYE: Yeah, I said that we were going to accept CNX's  
10   acreage figure since they've already gone through the work of doing computation  
11   and the mapping.

12                  PEGGY BARBAR: The motion should state what that figure is.

13                  BILL HARRIS: Yeah, I guess, I'm---.

14                  JIM McINTRYE: Okay.

15                  PEGGY BARBAR: Is why I think some of us...is it the 10.72---?

16                  BILL HARRIS: Well, that's---.

17                  PEGGY BARBAR: ---or as far as---?

18                  JIM McINTRYE: The acreage is the 10.72.

19                  BENNY WAMPLER: That's your motion?

20                  JIM McINTRYE: That's my motion.

21                  BENNY WAMPLER: Is there a second?

22                  (No audible response.)

23                  BENNY WAMPLER: I'll give you a couple of minutes just to verify if  
24

1 that's what you're trying to do, that acreage that was...

2 PEGGY BARBAR: Can we have some more discussion, Mr.

3 Chairman?

4 BENNY WAMPLER: Sure, sure.

5 PEGGY BARBAR: The point I was making a minute ago, Mr.

6 Perkins feels he has 17 acres and he sold off 5.38

7 acres---.

8 BILL HARRIS: Robinson.

9 PEGGY BARBAR: Robinson, I'm sorry. ---which leaves with him

10 with what he claims to own is 11.62 acres, which leaves a discrepancy between

11 the company and Mr. Robinson of .90 acres.

12 BENNY WAMPLER: I think that's correct.

13 PEGGY BARBAR: Is that what we're talking about here?

14 BENNY WAMPLER: It is.

15 PEGGY BARBAR: Okay.

16 BILL HARRIS: Let me ask Mr. Robinson a question. The...the

17 acreages that you're getting for...I'm just looking at one of these sheets, I guess

18 it's number five, it says, "Railroad 3.7" where if you look at...now, that's from the

19 deed that actually says 3.7? Does it say 3.7, more or less, like most?

20 KYLE ROBINSON: No. The calls is right there. I give you the calls

21 taken from the deed book, the page numbers and everything where it was taken

22 from the deed book.

23 BILL HARRIS: Now, how did the 3.7 get determined though? I

24

1 mean, is that whatever amount was used back in, what was it '74 or---?

2 KYLE ROBINSON: '60 something... '57.

3 BILL HARRIS: So, whatever method was...because certainly they  
4 didn't have the micro station or whatever it is you might be using now, but...so,  
5 they used whatever technique they used to measure out the surface acreage  
6 rather than---.

7 KYLE ROBINSON: Yeah. Yes, sir, I presume.

8 BILL HARRIS: Now, the 3.75 that you all are getting are from what  
9 now?

10 CHRIS LOONEY: That's from taking the plat that the railroad has  
11 and putting it on the map and fitting it to the topo maps and the area that we have  
12 and it comes up to 3.75.

13 BILL HARRIS: Now, is that normal? Does this happen often like  
14 this, I mean, when the deed says 3.7 and the actual measurement---?

15 CHRIS LOONEY: Yes, sir.

16 BILL HARRIS: ---is actually more than that? I mean, this is not  
17 uncommon is what you're saying?

18 CHRIS LOONEY: No, sir.

19 BILL HARRIS: Gee.

20 CHRIS LOONEY: It's very common.

21 BILL HARRIS: How do you ever know what you own? I mean---.

22 CHRIS LOONEY: Have a survey done. A licensed land surveyor  
23 survey your property and put corners in and then you know what you own.

24

--

1                    BILL HARRIS: And the same goes for the other folks that you've  
2 sold property to, you have 1 acre and then they're showing 1.09?  
3                    KYLE ROBINSON: Yeah, one acre. Yeah, it went...it finally wound  
4 up to N & W Railroad purchased it. But it was an even 1 acre.  
5                    BILL HARRIS: Well, see again, they have 1.09 when you look at  
6 the---.  
7                    KYLE ROBINSON: Yeah, that's not---.  
8                    BILL HARRIS: See, I think it's those bit and pieces that add  
9 together for that nineteenthths.  
10                   KYLE ROBINSON: Well, you've got to go by what a deed says.  
11 You can't go by what---.  
12                   BILL HARRIS: Well, the only thing I can...when I look at your deed  
13 it just says, "10 acres, more or less."  
14                   KYLE ROBINSON: Yeah.  
15                   BILL HARRIS: "7 acres, more or less." I'm thinking that it may be  
16 on the less side when all is said and done of all of those.  
17                   PEGGY BARBAR: Have we had cases where this type of data has  
18 been used and verified and it just sets a precedence for what we do---?  
19                   KYLE ROBINSON: You have to---.  
20                   PEGGY BARBAR: ---as opposed to using whatever numbers are  
21 found in these Court deeds?  
22                   BENNY WAMPLER: I don't know that we've had the exact same  
23 type. But the Board never tries to resolve the dispute. That's...that's something  
24

1 for the Court. I think...I think we have had cases where we had to...had to go with  
2 confidence level of what we've felt like that, you know. Was that a reasonable  
3 basis to do this and does it do the most good and the least harm, kinds of things?

4 PEGGY BARBAR: Uh-huh.

5 BENNY WAMPLER: And we've made those kinds of gut calls. Do  
6 we have enough evidence to go this way or that way?

7 PEGGY BARBAR: Uh-huh. That's good to know.

8 BILL HARRIS: Let me let him finish...you were going to make  
9 a...were you going to tell something else about  
10 the---?

11 KYLE ROBINSON: See---.

12 BILL HARRIS: Go ahead.

13 KYLE ROBINSON: ---what...what they did, they added these figures  
14 to make it come out. You don't do that. You don't---.

15 BENNY WAMPLER: Okay, well, we...we understand that and we've  
16 heard all of that. We've got a motion before us. Is there a second? The motion  
17 was...do you want to restate your motion?

18 MARY QUILLEN: Restate your motion.

19 BENNY WAMPLER: You're going with what was presented here  
20 today by CNX?

21 JIM McINTRYE: That's correct.

22 BENNY WAMPLER: Is there a second to that motion?

23 (No audible response.)

24

--

1                   BENNY WAMPLER: The motion dies without a second. Is there a  
2 further motion?

3                   (No audible response.)

4                   SHARON PIGEON: If I could just clarify something for the Board  
5 here. What the Board is doing is weighing the evidence that has been presented  
6 on a pooling...repooling application, as it were. Regardless of how you decide on  
7 the pooling issue, Mr. Robinson would still have a civil action on a title dispute if  
8 he feels that there is a continuing one. Nothing that you do here will change that.

9                   MARY QUILLEN: Mr. Chair, may I ask a question to our attorney?  
10 If the Board should go with the proceeds going to escrow until the disputed  
11 acreage is settled---?

12                  SHARON PIGEON: By a Court action or a settlement.

13                  MARY QUILLEN: ---by a Court action or by a settle-ment---?

14                  SHARON PIGEON: Yes, what is your question?

15                  MARY QUILLEN: No, I said, can...can the Board go with that?

16                  SHARON PIGEON: They're going with the best evidence that is  
17 before them. No Court action has handled this particular dispute. Mr. Robinson  
18 was a party to another Court action, but that's not about the boundaries between  
19 the adjacent landowners. That was a dispute about ownership of gas.

20                  MARY QUILLEN: Oh, so there is no Court action? Is that what---?

21                  SHARON PIGEON: Not that I've ever seen.

22                  BENNY WAMPLER: No.

23                  MARY QUILLEN: Okay, okay.

24

--

1           BENNY WAMPLER: It's not a Court action.

2           PEGGY BARBAR: That's what is somewhat confusing.

3           SHARON PIGEON: Yes, he said that, but---.

4           MARY QUILLEN: Yes, that's what---.

5           SHARON PIGEON: ---that was a different kind of action.

6           BENNY WAMPLER: That's a whole different action.

7           SHARON PIGEON: That was of the ownership of coalbed methane.

8           MARY QUILLEN: Oh, okay.

9           SHARON PIGEON: And that was a...there was not a dispute

10 between the adjacent owners of property as to their boundary corrections. A lot of

11 the people involved in this particular situation probably have not had their

12 individual tracts surveyed. So, that's the reason that, yes, these mistakes are not

13 uncommon and as they become cumulative they become larger.

14           BENNY WAMPLER: You know, I usually don't do this, but I'm going

15 to go ahead and say from my...from my personal opinion, the motion we had

16 before us earlier is the best motion from all parties involved and that was to

17 approve what we have. The most people get paid, the least people get harmed in

18 the way of putting it in escrow, including Mr. Robinson. It's unfortunate we don't

19 have an agreement, but that...but that...you know, based on all of that, that's...and

20 I think that we have a credible method of determining the amount.

21           PEGGY BARBAR: Would that motion make it retroactive to pay him

22 the difference?

23           BENNY WAMPLER: He would be paid...he would be back paid the

24

1 difference, yes.

2 BILL HARRIS: If...if he were to disagree with the number, then that

3 would be---?

4 BENNY WAMPLER: The resolution of that...of the difference, the

5 .22---.

6 BILL HARRIS: The 17 or the---?

7 BENNY WAMPLER: ---would come about as a result of a surveyed

8 plat---.

9 SHARON PIGEON: And a decision.

10 BENNY WAMPLER: ---or going and working that out with them.

11 They could do that by agreement or by Court.

12 PEGGY BARBAR: I think that's what I was unsure

13 about---.

14 KYLE ROBINSON: Well, let me ask you a question.

15 PEGGY BARBAR: ---where it would go---.

16 KYLE ROBINSON: What you're telling me, you're going to put me in

17 escrow today for 10.72, is that correct?

18 BENNY WAMPLER: That was the motion. I said, I agreed with it.

19 We've not done anything.

20 SHARON PIGEON: Pooled and not escrowed.

21 BENNY WAMPLER: Yeah, pooling and not escrowing.

22 KYLE ROBINSON: Okay.

23 BENNY WAMPLER: Not escrowing. You would get paid,

24

1 retroactive by doing that. It puts a number there. They have a number that  
2 we...you know, that we can go with, and here again, I typically don't do this, but  
3 that's...to me that's the cleanest. You're not...you're not getting the results you  
4 want completely, but you're almost there.

5 SHARON PIGEON: Otherwise, it would go into escrow. That's the  
6 other alternative.

7 KYLE ROBINSON: Well, it---.

8 MARY QUILLEN: I'll second the motion.

9 BILL HARRIS: Well, I guess it---.

10 BENNY WAMPLER: Well, it died.

11 PEGGY BARBAR: It died.

12 BENNY WAMPLER: We'd have to restate it.

13 MARY QUILLEN: Oh, I'm sorry. I'm sorry.

14 BENNY WAMPLER: So, do you want to go ahead and restate your  
15 motion again.

16 JIM McINTRYE: I make a motion that the Board accept CNXs  
17 proposal here to force pool and to accept their calculations on the surveyed  
18 figures as they presented and that those acreages be 10.72 acres.

19 PEGGY BARBAR: I second.

20 BENNY WAMPLER: The motion is second. Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying yes.

23 (All Board members signify by saying yes.)

24

--

1                   BENNY WAMPLER: Opposed, say no.  
2                   (No audible response.)  
3                   BENNY WAMPLER: You have approval.  
4                   KYLE ROBINSON: Thank you.  
5                   BENNY WAMPLER: Thank you. The next item on the agenda...you  
6 need a break.  
7                   (Laughs.)  
8                   BENNY WAMPLER: I know that look.  
9                   (Break.)  
10                  BENNY WAMPLER: Okay. The next item on the agenda is a  
11 petition from CNX Gas Company, LLC for establishment of drilling units under  
12 field rules allowing for horizontal drilling. This is docket number VGOB-04-0921-  
13 1341-03. We'd ask the parties that wish to address the Board in this matter to  
14 come forward at this time.  
15                  MARK SWARTZ: Mark Swartz and Les Arrington.  
16                  DONALD JOHNSON: Donald Johnson with Andy Cecil.  
17                  BENNY WAMPLER: All right. Mr. Cecil, do you want to be sworn  
18 in?  
19                  ANDY CECIL: Sure.  
20                  (Andy Cecil is duly sworn.)  
21                  BENNY WAMPLER: Mr. Arrington, you've been previously sworn.  
22                  LESLIE K. ARRINGTON: Yes, sir.  
23                  BENNY WAMPLER: Mr. Swartz, you may proceed.  
24

1

2

3

4

LESLIE K. ARRINGTON

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7

Q. You need to state your name again for us, Les.

8

A. Leslie K. Arrington.

9

MARK SWARTZ: Just to sort bring the Board up to...let me just  
10 pass this around here.

11 (Mark Swartz passes out an exhibit.)

12

MARK SWARTZ: This...actually you need to share yours---.

13

DONALD JOHNSON: I'll share Andy's.

14

MARK SWARTZ: Okay. We have...we have been here before at  
15 times on...on these kinds of matters. This is a petition that would create a drilling  
16 unit to drill horizontal wells and those other wells where you actually drill two wells  
17 and you steer one end into a coal seam. This plat that I've just passed out, shows  
18 several of the wells that we've already been here on. The one we're talking  
19 about...I think it's this one, isn't it, Les?

20

LESLIE K. ARRINGTON: Yes.

21

MARK SWARTZ: Let me...let me just circle it that this the one.  
22 It's...it's this one that we're here on today. It's the most---

23

BENNY WAMPLER: And what is this one?

24

--

1                   DONALD JOHNSON: It's the most...it's the  
2 most---?

3                   MARK SWARTZ: It's---.

4                   DONALD JOHNSON: ---westerly, isn't it, on  
5 that---?

6                   MARK SWARTZ: Yeah, it's the most westerly and it's...it's an  
7 upside V as opposed to a right side up V.

8                   BENNY WAMPLER: The lower one?

9                   MARK SWARTZ: No, it's...it's the lower of the two upper ones,  
10 correct.

11                  BENNY WAMPLER: Yes.

12                  PEGGY BARBAR: At PQ...at PQ?

13                  MARY QUILLEN: At the P?

14                  BILL HARRIS: No, at the---.

15                  MARK SWARTZ: It's just off...the two wells are just to the right of  
16 the P in the P column. And what...what we have done in the past, just to focus  
17 you and then I'll get with Les to get some testimony here, they have extended the  
18 grid to the east and essentially the units that we've created are any 80 acre unit in  
19 which the horizontal well is actually physically located. Then we've got an  
20 allocation example, but we allocate by the feet of the well in the...in the 80 acre  
21 unit and that's how the production gets allocated.

22                  Q.           Okay, that being said, Les, you need to state your name for  
23 the record.

24

1 A. Leslie K. Arrington.

2 Q. Who do you work for?

3 A. CNX Gas Company.

4 MARK SWARTZ: Okay. I would like to incorporate Mr. Arrington's  
5 prior testimony with regard to what he does, with regard to the applicant and the  
6 designated operator and with regard to lease terms.

7 BENNY WAMPLER: That will be incorporated.

8 Q. Les, what...what are you asking the...what issues are you  
9 asking the Board to address today?

10 A. For us...to allow us to drill this horizontal well. We've  
11 previously been here before on three others and to allow us to drill the well TA-  
12 6768 and to do the allocation across approximately five 80 acre units, which  
13 would be P-58, P-59 and Q-58 and Q-59 and R-58.

14 Q. Which is total of 400, right?

15 A. A total of 400 acres. I think, the application indicated 480.  
16 We shortened one of the legs a bit. So, we're only in 400 acres.

17 Q. Okay.

18 A. And to approve the allocation methods of the...of the  
19 allocation for the production...payment of the royalties and its production. This  
20 was...this is how we proposed to do the allocation for the total length of the legs of  
21 the wells.

22 (Leslie K. Arrington passes out an exhibit.)

23 Q. And how many wells do you need to drill to do this...these  
24

1 legs?

2 A. I'm sorry?

3 Q. How many wells do you need to permit and drill to do these

4 two legs?

5 A. We'll drill one production hole and one access hole.

6 Q. Okay.

7 A. The production hole being TA-68 and the access hole is

8 TA-67.

9 Q. And actually when say production hole, so the gas when

10 it's produce will actually just come up the TA-68 hole?

11 A. Yes.

12 Q. Okay. But you need to permit both holes under Virginia

13 law and that's why we have two permitted wells?

14 A. That's correct.

15 Q. What did you do to tell people that would be affected by

16 these two wells that we were going to have a hearing today?

17 A. We mailed by certified mail return receipt requested on

18 December 16, 2005 and we published December 28, 2005 in the Bluefield Daily

19 Telegraph.

20 Q. And did you file proofs with regard to mailing and

21 publication with Mr. Wilson?

22 A. Yes, we did.

23 Q. Okay. Are these wells permitted yet?

24

1 A. Yes, they are.

2 Q. And, I think, those permit numbers are set forth in  
3 the...actually, they're in the application?

4 A. Yes. I'll have to put my glasses on to read them though.  
5 69.85 for 67 and 69.82 for 68.

6 Q. Okay. And what seam are these wells going to be drilled  
7 in?

8 A. Pocahontas Three or Four seam, I'm not sure. Three, Four  
9 or Five seam.

10 Q. Okay. And the allocation example that you've passed out  
11 to the Board this morning, could you kind of work through that with them, so they  
12 understand what...what we've proposed in the past and what we would propose to  
13 do again?

14 A. Yes. What I've done here is I've kind of done a general of  
15 what the proposed legs would look like when we allocated. You can see leg one  
16 in unit P-58 would be a 1,054 feet and the other leg would be 1492 feet in  
17 P-58. And then what we done, we took the total length of the proposed legs,  
18 which was 7,817 feet, and it was...it was just a percentage of the total.

19 Q. Okay. And then you would apply that percentage towards  
20 the total production coming out of the production hole---?

21 A. Yes, we would.

22 Q. ---and that would allocate the production and you can back  
23 into the royalty from that number as well?

24

--

1                   A.       Yes, you could.

2                   Q.       Okay. Is that what we've done in the past with the three

3 other wells we've been here on?

4                   A.       Yes, it would have been. However, those were a 100%

5 owned.

6                   Q.       Okay. But that...that would have been the way---?

7                   A.       It would have been the very way.

8                   Q.       Okay. The...if, for example, let's look at the R roll, if the

9 leg that almost goes north and south did not extend into the R roll, you could then

10 just use the allocation procedure to allocate to the two units that was in?

11                  A.       That's correct.

12                  Q.       Okay. And sometimes you can't drill as far as you initially

13 would like to?

14                  A.       That's correct.

15                  Q.       And by having these 80 acre units and a leg allocation

16 percentage, you sort of take into account the technical difficulties that you might

17 have down the road?

18                  A.       Well, that's correct. And, you know, we could, as we're

19 drilling the legs of these wells, it may...it could easily end up not in R-58.

20                  Q.       Okay. Is...is the horizontal drilling a reasonable way to

21 extract, in your opinion, the coalbed methane from a given coal seam?

22                  A.       We're hoping it will be.

23                  Q.       Okay. Has it worked for you in the past?

24

1                   A.           It's working.

2                   Q.           It's working, okay. All right. If you combine the leases that

3   you've obtain in these five 80 acre tracts and the pooling order that you're seeking

4   today to create the unit in and pool it, would that serve to protect the correlative

5   rights of all owners and claimants in these five 80 acre units?

6                   A.           Just a second.

7                   (Leslie K. Arrington reviews his file.)

8                   A.           We're not pooling this at this time.

9                   Q.           Okay. So, we're just creating the unit?

10                  A.           Creating the unit.

11                  Q.           Okay, okay.

12                  A.           Yes.

13                  Q.           So, we're just...it's just creating it at this point?

14                  A.           Yes.

15                  Q.           Okay. And if we can't lease it, we may have to come back?

16                  A.           If it's...I believe it may be a 100% leased.

17                  Q.           Okay. So, we may not have to come back?

18                  A.           Right.

19                  MARK SWARTZ: Okay. With that correction, that's all I have, Your

20   Honor.

21                  BENNY WAMPLER: Mr. Johnson.

22                  DONALD JOHNSON: I just have some questions. For the record,

23   I'm here for Pocahontas Mining, Limited Liability Company, which does acreage

24

1 within the area being proposed.

2

3

4

#### CROSS EXAMINATION

#### QUESTIONS BY MR. JOHNSON:

6 Q. Mr. Arrington, what is the...what is the...as far as Consol's  
7 best information, how far does the...does the well bore, in terms of...how far does  
8 the gas around the well bore come into the well? What's...what's the draw factor  
9 in terms of how...how far these horizontal wells...how much gas do they take in?  
10 What's the...how much do they influence?

11 A. We're hoping we can influence 400 to 500 feet, you know.  
12 Again, we're...it's still new to us at this point.

13 Q. Okay. And what...what is the reason that it would...that it's  
14 more financial or potentially financially more beneficial to drill horizontal wells as  
15 opposed to going out there and drilling vertical wells that would impact more coal  
16 seams?

17 A. You can drill approximately three to four well...vertical  
18 wells for these and we're hoping our production will exceed that.

19 Q. Have you drilled any of the wells that have already been  
20 approved?

21 A. Yes, we have.

22 Q. Okay. And are any of those in production?

23 A. Yes.

24

--

1 Q. Okay. How many are actually in production?  
2 A. Two.  
3 Q. Okay. And does the...does the plat that we have show the  
4 actual length of those...those wells?  
5 A. The southern two? No, sir, it does not.  
6 Q. Okay.  
7 A. That was the proposed...proposals on them.  
8 Q. Okay. What did it end up? Were they... were they  
9 shorter?  
10 A. They were shorter, yes.  
11 Q. Okay. One thing, for clarification, the chart that you  
12 handed out shows that these wells are...I think you've got P or units P-58, P-59  
13 and Q-58 and Q-59 and R-58 and it looks like that the...that the wells begin in P, it  
14 looks, 59.  
15 ANDY CECIL: The charts wrong.  
16 Q. Yeah.  
17 A. Yeah. It does.  
18 Q. So, I guess, that's...so, the chart's wrong for the---?  
19 A. Yeah, it's...yeah, it was an example.  
20 Q. Okay. And what you're proposing that...that the Board  
21 establish units for this...this particular well, this TA, is it 58...57, is that what's  
22 being---?  
23 MARK SWARTZ: 68.  
24

1 Q. 68.

2 A. Yes, it is.

3 Q. Okay. And have these...have these units been established

4 by the Board?

5 A. The concept of drilling horizontal holes within that

6 boundary of 80 acre units has been presented to the Board before.

7 Q. Okay. Has the...has the Board set up a field rule or field

8 grid for purposes of these horizontal holes or are you asking the Board to do that?

9 A. I was asked to present this map to...to the Gas and Oil

10 Board, yes.

11 Q. Okay.

12 (Donald Johnson confers with Andy Cecil.)

13 BENNY WAMPLER: For our clarification, while they're having a

14 discussion, today you're asking the Board to approve TA-67 and TA-68---?

15 LESLIE K. ARRINGTON: Yes, sir.

16 BENNY WAMPLER: ---only?

17 LESLIE K. ARRINGTON: Yes, sir.

18 BENNY WAMPLER: Not the grid itself?

19 LESLIE K. ARRINGTON: That's correct. And any other well, we'll

20 be here just the same as this one.

21 BENNY WAMPLER: And what's the purpose of going out beyond

22 the current grid?

23 LESLIE K. ARRINGTON: Are you talking about---?

24

1                   BENNY WAMPLER: What---?

2                   LESLIE K. ARRINGTON: ---the corner...current Oakwood grid?

3                   BENNY WAMPLER: Yes.

4                   LESLIE K. ARRINGTON: Well, that was an area that we were not

5 being real successful with vertical drilling. So, we're attempting to make it

6 successful with horizontal drilling.

7                   BENNY WAMPLER: Go ahead, Mr. Johnson.

8                   Q.           Are you...are you...in other words, I think what...what you

9 just testified to is that...is that the...that this is a methodology that you think will

10 be...will enable you to extract gas that the vertical holes won't do, is that what

11 you're saying? You haven't been...you haven't been happy with the vertical

12 holes?

13                   A.           In that area, we are not. So, a new plan.

14                   Q.           How far have you...how far to the...to the east of the

15 Oakwood grid have you attempted to drill vertical holes?

16                   A.           It's shown there, the two southern wells.

17                   Q.           Okay.

18                   (Donald Johnson confers with Andy Cecil.)

19                   Q.           Yeah, I was asking you about actual...the conventional

20 vertical CBM wells. Where are they shown at?

21                   A.           They're shown...you can---.

22                   Q.           Oh, I see.

23                   A.           Kind of on that map, you can kind of see the dots.

24

1 Q. Oh, I see.

2 A. The kind of see them in there.

3 Q. All right.

4 ANDY CECIL: Those are frac wells?

5 A. Those are frac wells, yes.

6 BENNY WAMPLER: Questions from members of the Board? I'll

7 come back to you, Mr. Johnson, in case you have others.

8 DONALD JOHNSON: Okay.

9 BILL HARRIS: I think...Mr. Chairman.

10 BENNY WAMPLER: Mr. Harris.

11 BILL HARRIS: I think a comment was made on the number existing

12 by example. So, you're---.

13 LESLIE K. ARRINGTON: I'm sorry. This was an example of how we

14 would just allocate production and do the calculations for the total length.

15 BILL HARRIS: So, you're saying the 67 and 68 are not---?

16 LESLIE K. ARRINGTON: Right. As he

17 indicated---.

18 BILL HARRIS: Those aren't---?

19 LESLIE K. ARRINGTON: ---that would be 59.

20 BILL HARRIS: Well, I actually have a question of...oh, okay. Well,

21 that takes care of...your letters P, Q, R, S and T, those are the actual 58 grids?

22 LESLIE K. ARRINGTON: Yes. Yes.

23 BILL HARRIS: And so we're really in 59 and 60?

24

1           LESLIE K. ARRINGTON: 59 and 60, that's correct.

2           BILL HARRIS: Okay. That's...that's...I wanted to make sure about

3 that. Okay.

4           BENNY WAMPLER: Other questions from members of the Board?

5           (No audible response.)

6           BENNY WAMPLER: Mr. Wilson, do you have any---?

7           BOB WILSON: Yes, sir, for clarification purposes, earlier on, the

8 Board decided to extend the 80 acre grid, but not the Oakwood Field Rules---.

9           BENNY WAMPLER: Right.

10          BOB WILSON: ---for convenience for these projects. As I recall, the

11 Board asked for an area that was proposed for the development and that's where

12 this actual grid came from. But it has not been formally numbered and it is not

13 included in the Oakwood Field Rules.

14          BENNY WAMPLER: Right. Thank you.

15          MARK SWARTZ: We have never asked you to create field rules for

16 our part either.

17          BENNY WAMPLER: Right.

18          MARK SWARTZ: I mean, this is a map for convenience of tracking

19 where these wells are in terms of where you're going to pay.

20          BENNY WAMPLER: Other questions from members of the Board?

21          BILL HARRIS: Well, let me just---.

22          BENNY WAMPLER: Mr. Harris.

23          BILL HARRIS: ---follow up a earlier question. So, the ones you

24

1 have drilled and are producing, you really don't have enough information yet to  
2 see if that's better than what we've been doing conventionally?

3 LESLIE K. ARRINGTON: They're not as good as we'd like. But  
4 we're...these two down here, admittedly, we deal...we drilled them right on the Dry  
5 Fork anti-cline and we were drilling up dip real sharply. We wanted...we want to  
6 drill up dip, but this was drilled up dip real...real steeply. We wasn't able to get  
7 the length of legs that we wanted.

8 BILL HARRIS: Now...now, does that...how does that change things  
9 then? If you don't get that length, does that change---?

10 LESLIE K. ARRINGTON: The length of legs is---.

11 BILL HARRIS: Yeah, you still measure that and you still allocate---?

12 LESLIE K. ARRINGTON: Yes, sir.

13 BILL HARRIS: Well, now---.

14 LESLIE K. ARRINGTON: You still allocate---.

15 BILL HARRIS: ---if that's going upward, then it's not moving into  
16 the...I mean, you may not move into AA or whatever that happens to be then, is  
17 what you're.

18 LESLIE K. ARRINGTON: That's correct.

19 BILL HARRIS: You may not have...so, if you're 500 feet short, it  
20 may...that changes your allocation, correct?

21 LESLIE K. ARRINGTON: It absolutely does.

22 BILL HARRIS: But you do have surface measurements of the  
23 effected length and, I guess, this

24

--

1 is---

2 LESLIE K. ARRINGTON: Oh, we do.

3 BILL HARRIS: ---actual---

4 LESLIE K. ARRINGTON: It's measured underground.

5 BILL HARRIS: ---rather than the inclined length. It's the actual  
6 length into the---

7 LESLIE K. ARRINGTON: It is.

8 BILL HARRIS: Okay.

9 LESLIE K. ARRINGTON: Yes, sir.

10 DONALD JOHNSON: I just wanted to ask a couple of questions.

11 CROSS EXAMINATION RESUMES

12 QUESTIONS BY MR. JOHNSON:

13 Q. When you do vertical wells, what is the...what is the total  
14 amount of coal thickness that is necessary to justify a vertical well?

15 A. It's according to the gas content. I mean, you...we...we like  
16 plus 10 feet.

17 Q. Plus 10 feet. But it is...it's not an, you know, exact number  
18 you're saying?

19 A. No, sir, it's not.

20 (Donald Johnson confers with Andy Cecil.)

21 Q. How thick does the coal seam need to be in order for you  
22 to frac the coal seam?

23 A. A half a foot.

24

--

1 Q. The coal thicknesses in this area...the coal thicknesses of  
2 the seam that you are attempting to drill horizontally, how does that measure to  
3 the seams above it that you could...could actually drill if you drilled vertically? Is  
4 it...are you...are you getting into the thickest seams when you drill into these  
5 seams?

6 A. The horizontal drilling?

7 Q. Yes.

8 A. Yes, we are. And quite honestly, that's what happened to  
9 us on the one to the east of it. We thought we were getting into the thick seam  
10 and there was no coal there.

11 BENNY WAMPLER: Other questions from members of the Board?  
12 (No audible response.)

13 (Donald Johnson confers with Andy Cecil.)

14 BENNY WAMPLER: Do you have anything further, Mr. Johnson?

15 Q. The thickness in the area...

16 (Donald Johnson confers with Andy Cecil.)

17 Q. The TA-68...TA-68 exhibit to---.

18 (Donald Johnson confers with Andy Cecil.)

19 Q. ---the permit shows that there's a coal thickness of over 20  
20 feet in the...in the area from the P-11 down to the P-4 and I'm just---.

21 (Donald Johnson confers with Andy Cecil.)

22 Q. Excuse me, down to the square gem. I'm just wondering,  
23 you know, have you drilled wells in that...you know, with that kind of coal  
24

1 thickness that have not been successful?

2 A. Yes, we have.

3 Q. Okay.

4 A. In that area.

5 Q. In that area, okay.

6 (Donald Johnson confers with Andy Cecil.)

7 DONALD JOHNSON: That's all...that's all we have.

8 BENNY WAMPLER: Okay. Do you have anything further, Mr.

9 Swartz?

10 MARK SWARTZ: I just have one question.

11

12

13 REDIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. The number that drives the train is the standard cubic feet  
16 of gas per ton of coal and not the coal thickness, right?

17 A. That's correct.

18 MARK SWARTZ: That's all I have.

19 BENNY WAMPLER: Other questions from members of the Board?

20 BILL HARRIS: Just one---.

21 BENNY WAMPLER: Mr. Harris.

22 BILL HARRIS: ---for informational. This is a location exception.

23 Does that come with the fact that this is horizontal or is there---?

24

--

1           MARK SWARTZ: There are two wells real close together.

2           BILL HARRIS: Oh.

3           BENNY WAMPLER: Yeah, that's it.

4           BILL HARRIS: Thank you.

5           MARK SWARTZ: That's okay.

6           DONALD JOHNSON: And, you know, Mr. Wampler, I would like to  
7 say to the Board, I...it's my client's feeling that the Board needs to look at, you  
8 know, coming up with some sort of rules that are applicable to this area instead of  
9 just letting it hang because I feel like going forward, there will be more wells  
10 drilled, and to the extent everyone knows what's going on with regard to...to this  
11 area of the world, that that is the best thing that would protect everybody and I  
12 think would be, and my client believes would be the most beneficial way to  
13 proceed, would be for the Board to adopt some standardized units that could be  
14 used for this purpose.

15           BENNY WAMPLER: Well, you know, we, I think, agree with that  
16 statement that that would be the plan down the road. We did agree for these to  
17 go forward so that the...in other words, go into the new territory and see if there's  
18 a better way to produce and that's what's going on. Obviously, each time we have  
19 an application before us, we're going to have to be reevaluating how much...how  
20 much information is needed in order to have the factual information for the Board  
21 to make field rules consistent with the law and regulations. So, I think that's what  
22 we wrestle with every time we get this kind of thing coming in. But this is...we  
23 don't have a lot of the experience here.

24

--

1                   DONALD JOHNSON: I think when the...when the Oakwood Field  
2 was established, there wasn't a lot of experience when that happened.

3                   BENNY WAMPLER: That's right.

4                   DONALD JOHNSON: And just, you know, set it up and it may or  
5 may not have worked, but everybody has gone by the rules that were established  
6 and they understand where they...where they are. I think that's...I think as soon  
7 as the Board can adopt some rules and adopt this grid or some other grid as the  
8 game plan, I think...I think the Board will...will be benefitted and also the citizens  
9 who own...who own acreage within this grid. That's all we have to say about it.

10                  BENNY WAMPLER: We kind of wrestled back and forth about who  
11 should come before the Board with that petition for adoption, whether or not the  
12 Board on its own motion or whether or not the applicant should, to be quite frank  
13 about it. We go back and forth with that. At least for the other Board, I've got  
14 several new members here that didn't...but some of us have wrestled that back  
15 and forth too. But we always would entertain an application to establish field  
16 rules. Absent that, the Board has on its own motion before heard testimony and  
17 established field rules because at some point in time we've looked at the way the  
18 law is, it's a very onerous of notification to do individual and we recognize that  
19 and all the parties that could, you know...are out there. And at the same time,  
20 whenever we...we do announce that we're having a hearing and say that we're  
21 going to consider field rules, we consider that to be notice as well, if the Board is  
22 doing it on its own motion. We hear you.

23                  DONALD JOHNSON: Thank you very much.

24

--

1                   BENNY WAMPLER: Is there a motion?

2                   JIM McINTRYE: Motion to approve as submitted.

3                   BILL HARRIS: Second.

4                   BENNY WAMPLER: And seconded. Any further discussion?

5                   (No audible response.)

6                   BENNY WAMPLER: All in favor, signify by saying yes.

7                   (All Board members signify by saying yes.)

8                   BENNY WAMPLER: Opposed, say no.

9                   (No audible response.)

10                  BENNY WAMPLER: You have approval. Thank you.

11                  MARK SWARTZ: Thank you all.

12                  BENNY WAMPLER: The next item on the agenda is a petition from

13   Equitable Production Company for a well location exception for proposed well V-

14   526763. This is docket number VGOB-06-0117-1562. We'd ask the parties that

15   wish to address the Board in this matter to come forward at this time.

16                  JIM KAISER: Mr. Chairman and members of the Board, Jim Kaiser

17   and Don Hall on behalf of Equitable Production Company. Mr. Hall has been

18   previously sworn.

19                  (Don Hall passes out an exhibit.)

20                  BENNY WAMPLER: While he's handing those out, do you have any

21   housekeeping with any of yours?

22                  JIM KAISER: Any of his clients or any of them period?

23                  BENNY WAMPLER: Yes. Well, any of them period.

24

--

1                    JIM KAISER: I do believe that we are going to continue items  
2    twenty-one and twenty-two until February, which are the two location exceptions  
3    that we filed with Columbia Natural Resources.

4                    BENNY WAMPLER: Okay. All right. The record will show there are  
5    no others. You may proceed.

6

7    DON HALL  
8    having been duly sworn, was examined and testified as follows:

9    DIRECT EXAMINATION

10   QUESTIONS BY MR. KAISER:

11                    Q.            Okay. Mr. Hall, you passed out our exhibit that we have  
12    prepared for this?

13                    A.            Yes.

14                    Q.            And could you state your name, who you're employed by  
15    and in what capacity?

16                    A.            My name is Don Hall. I'm employed by Equitable  
17    Production Company as District Landman.

18                    Q.            Do your responsibilities include the land involved here and  
19    in the surrounding area?

20                    A.            They do.

21                    Q.            And you're familiar with the application we filed seeking a  
22    location exception for Equitable well V-536763?

23                    A.            Yes.

24

--

1 Q. Have all interested parties been notified as required by  
2 Section 4(B) of the Virginia Gas and Oil Board Regulations?

3 A. They have.

4 Q. Could you state for the Board the ownership of the oil and  
5 gas underlying this unit?

6 A. We have...we will have 100% either leased or pooled.

7 JIM KAISER: Yeah. We're pooling this. In fact, I guess, we'll  
8 probably...that's some more housekeeping. I'd like to kind of move the pooling on  
9 this well, which is fifteen, to right behind this one when you call the next one, if we  
10 could, so they can run consecutive.

11 BENNY WAMPLER: Okay.

12 Q. And we are seeking an exception from one well, that's  
13 correct?

14 A. That's correct.

15 Q. And Equitable has the right to operate that well?

16 A. We do.

17 Q. So, there's no correlative rights issues?

18 A. No.

19 Q. In conjunction with your exhibit that you've prepared for the  
20 Board, explain why we're seeking this exception.

21 A. 6763 that's shown in red on this exhibit, it's being the  
22 exception, it's from P-204, which is 385 feet to the west. The surface that you see  
23 around the 204 and 91 are 2500 foot radius circles around those wells and you  
24

1 see they intercept just south of the...of 6763. The...which indicates the legal  
2 location would be just to the east of where 6763 is proposed. If you move out  
3 there, you would be on about 65 to 70% slope. It would be too steep to hold a  
4 location. If you move back toward...on some of those higher points, flat point  
5 ridges and points there, it would be too close to P-91. So, it's...that's the purpose  
6 of putting the well where we did. It's on a...out on a little point there and if you  
7 move much further than where it is, it drops off straight off.

8 Q. Okay. So, it's for topographic reasons?

9 A. Yes.

10 Q. It's an exception of 115 feet and that it also provides us  
11 with the best location that will prevent us from seeking an exception from another  
12 well?

13 A. True.

14 Q. Correct?

15 A. True.

16 Q. Okay. In the event this location exception were not  
17 granted, would you project the estimated loss of reserves?

18 A. 190 million cubic feet.

19 Q. And the total depth of this well?

20 A. 6325 feet.

21 Q. And are you requesting that this location exception cover  
22 conventional gas reserves to include designated formations from the surface to  
23 the total depth drilled?

24

--

1 A. Yes.

2 Q. In your opinion, would the granting of this location  
3 exception be in the best interest of preventing waste, protecting correlative rights  
4 and maximizing the recovery of the gas reserves underlying the unit for V-  
5 536763?

6 A. Yes.

7 JIM KAISER: No further questions of this witness at this time, Mr.  
8 Chairman.

9 BENNY WAMPLER: Questions from members of the Board?  
10 (No audible response.)

11 BENNY WAMPLER: Who owns the gas in the one that you're...on  
12 P-91?

13 DON HALL: We do on P-91. We own both reciprocal wells.

14

15 BENNY WAMPLER: Okay.

16 JIM KAISER: Well, there's really only one reciprocal well.

17 DON HALL: Well, P-91, yeah.

18 BENNY WAMPLER: Other questions from members of the Board?  
19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 JIM KAISER: Mr. Chairman, we'd ask that the application be  
22 approved as submitted.

23 BENNY WAMPLER: Is there a motion?

24

--

1                   JIM McINTRYE: Motion to approve.

2                   PEGGY BARBAR: I second.

3                   BENNY WAMPLER: The motion is second. Any further discussion?

4                   (No audible response.)

5                   BENNY WAMPLER: All in favor, signify by saying yes.

6                   (All Board members signify by saying yes.)

7                   BENNY WAMPLER: Opposed, say no.

8                   (No audible response.)

9                   BENNY WAMPLER: You have approval. And he has requested to

10 go to fifteen next.

11                  JIM KAISER: Which is a pooling on the same well.

12                  BENNY WAMPLER: This would be a petition from Equitable

13 Production Company for pooling of conventional unit V-536763, docket number

14 VGOB-06-0117-1565. We'd ask the parties that wish to address the Board in this

15 matter to come forward at this time.

16                  JIM KAISER: Mr. Chairman and members of the Board, again, Jim

17 Kaiser and Don Hall on behalf of Equitable Production Company.

18                  BENNY WAMPLER: The record will show no others. You may

19 proceed.

20

21                                   DON HALL

22                                   DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24

25

1 Q. Mr. Hall, again, state your name, who you're employed by  
2 and in what capacity.

3 A. My name is Don Hall. I'm employed by Equitable  
4 Production Company as District Landman.

5 Q. And you're familiar with the application we filed seeking to  
6 establish a drilling unit and pool any unleased interest for EPC well V-536763,  
7 which was dated December the 16th, 2005?

8 A. Yes.

9 Q. And does Equitable own drilling rights in the unit involved  
10 here?

11 A. We do.

12 Q. Prior to filing of the application, were efforts made to  
13 contact each of the respondents with an interest in the unit and an attempt to work  
14 out a voluntary lease agreement?

15 A. Yes.

16 Q. And what is the interest of Equitable under lease within the  
17 unit and you can round it off?

18 A. We have 93.93444% leased.

19 Q. Okay. And you're familiar with the ownership of drilling  
20 parties...drilling rights of parties other than Equitable underlying this unit?

21 A. Yes.

22 Q. And what percentage is unleased at this time?

23 A. 6.06555%

24

--

1 Q. And are all the unleased parties set out in Exhibit B-3?  
2 A. They are.  
3 Q. And we do, in this particular case, have some unknown  
4 interest owners, is that correct?  
5 A. Yes.  
6 Q. Were reasonable and diligent efforts made and sources  
7 checked to identify and an attempt to locate these unknown interest owners  
8 including primary sources such as deed records, probate records, assessor's  
9 records, treasurer's records and secondary sources such as telephone  
10 directories, city directories, family and friends?  
11 A. Yes.  
12 Q. In your professional opinion, was due diligence exercised  
13 to locate each of the respondents named herein?  
14 A. It was.  
15 Q. And are the addresses set out in Exhibit B to the last  
16 application the last known addresses for the respondents?  
17 A. Yes.  
18 Q. Are you requesting the Board to force pool all unleased  
19 interest listed at Exhibit B-3?  
20 A. Yes.  
21 Q. Now, are you familiar with the fair market value of drilling  
22 rights in the unit here and in the surrounding area?  
23 A. Yes.

24

1 Q. Could you advise the Board as to what those are?

2 A. We pay a five dollar bonus on a five year term with a one-  
3 eighth royalty.

4 Q. In your opinion, do the terms you just testified to represent  
5 the fair market value of and fair and reasonable compensation to be paid for  
6 drilling rights within this unit?

7 A. They do.

8 Q. Now, as to the unleased respondents listed at Exhibit B-3,  
9 do you agree that they be allowed the following statutory options  
10 with respect to their ownership interest within the unit: 1)  
11 Participation; 2) a cash bonus of five dollars per net  
12 mineral acre plus a one-eighth of eight-eighths royalty; or  
13 3) in lieu of a cash bonus and one-eighth of eight-eighths  
14 royalty share in the operation of the well on a carried basis  
15 as a carried operator under the following conditions: Such  
16 carried operator shall be entitled to the share of production  
17 from the tracts pooled accruing to his interest exclusive of  
18 any royalty or overriding royalty reserved in any leases,  
19 assignments thereof or agreements relating thereto of such  
20 tracts, but only after the proceeds applicable to his or her  
21 share equal, A) 300% of the share of such costs applicable to  
22 the interest of a leased tract or portion thereof; or B) 200%  
23 of the share of such costs applicable to the interest of an  
24

1       unleased tract or portion thereof?

2                   A.       Yes.

3                   Q.       Do you recommend that the order provide that  
4       elections by the respondent be in writing and sent to the  
5       applicant at Equitable Production Company, 1710 Pennsylvania  
6       Avenue, Charleston, West Virginia 25302, Attention:  Leslie  
7       Smith, Regulatory?

8                   A.       Yes.

9                   Q.       Should this be the address for all  
10      communications with the applicant concerning any force  
11      pooling order?

12                  A.       It should.

13                  Q.       Do you recommend that the order provide that  
14      if no written elections was properly made by a respondent,  
15      then that respondent should be deemed to have leased?

16                  A.       Yes.

17                  Q.       In other words, elected the delay rental and  
18      cash royalty option in lieu of participation?

19                  A.       Yes.

20                  Q.       Should the unleased respondents be given 30  
21      days from the date they actually receive the recorded Board  
22      order to file their written elections?

23                  A.       Yes.

24

--

1           Q.       If an unleased respondent elects to  
2 participate, should they be given 45 days to pay their  
3 proportionate share of actual well costs?

4           A.       Yes.

5           Q.       Does the applicant expect that party  
6 electing to participate to pay in advance that share of  
7 completed actual well costs?

8           A.       We do.

9           Q.       Should the applicant be allowed a 120 days  
10 following the recordation date of the Board order and  
11 thereafter annually on that date until production is  
12 achieved, to pay or tender any cash bonus or delay rental  
13 becoming due under the force pooling order?

14          A.       Yes.

15          Q.       Do you recommend that the order provide that  
16 if a respondent elects to participate but fails to pay their  
17 proportionate share of well costs, then that election to  
18 participate should be treated as having been withdrawn and  
19 void?

20          A.       Yes.

21          Q.       Do you recommend that the order provide that  
22 where a election...a respondent elects to participate but  
23 defaults in regard to payment of those well costs, then the

24

--

1 applicant has 60 days in which pay that respondent any money  
2 that may be due under the order?

3 A. Yes.

4 Q. We do need to correct a escrow account for  
5 this particular unit for the unknown interest?

6 A. That's correct.

7 Q. And that is set out in our Exhibit E?

8 A. Yes.

9 Q. It's just one tract, I believe.

10 A. Yes.

11 Q. What tract is that?

12 A. Tract 5.

13 Q. Tract 5. And who should be named operator  
14 under any force pooling order?

15 A. Equitable Production Company.

16 Q. And the total depth of this well under the  
17 plan of development?

18 A. 6325 feet.

19 Q. And the estimated reserves?

20 A. 190 million cubic feet.

21 Q. Has an AFE been reviewed, signed and  
22 submitted to the Board as Exhibit C to this application?

23 A. It has.

24

--

1           Q.       In your opinion, does it represent a  
2 reasonable estimate of the well costs?

3           A.       It does.

4           Q.       Could you state for the Board both the dry  
5 hole costs and completed well costs for this well?

6           A.       The dry hole costs is \$241,605 and the  
7 completed well costs is \$480,079.

8           Q.       Do these costs anticipate a multiple  
9 completion?

10          A.       They do.

11          Q.       Does your AFE include a reasonable charge  
12 for supervision?

13          A.       Yes.

14          Q.       In your professional opinion, would the  
15 granting of this pooling application be in the best interest  
16 of conservation, the prevention of waste and the protection  
17 of correlative rights?

18          A.       Yes.

19          MR. KAISER: Nothing further at this time of this  
20 witness, Mr. Chairman.

21          BENNY WAMPLER: Questions from members of the  
22 Board?

23                (No audible response.)

24

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1           BENNY WAMPLER: Do you have anything further?

2           JIM KAISER: We'd ask that the application be approved as

3 submitted, Mr. Chairman.

4           BENNY WAMPLER: Is there a motion?

5           BILL HARRIS: Motion for approval.

6           JIM McINTRYE: Second.

7           BENNY WAMPLER: Second. Any further discussion?

8           (No audible response.)

9           BENNY WAMPLER: All in favor, signify by saying yes.

10           (All Board members signify by saying yes.)

11           BENNY WAMPLER: Opposed, say no.

12           (No audible response.)

13           BENNY WAMPLER: You have approval. The next item on the

14 agenda is a petition from Equitable Production Company for pooling of coalbed

15 methane unit VC-536618, docket number VGOB-06-0117-1563. I'm taking you

16 back to number thirteen on the agenda. I'd ask the parties that wish to address

17 the Board in this matter to come forward at this time.

18           JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall for

19 Equitable Production Company. We have...this is the one that...one of the Yellow

20 Popular units again. We have several of these. But rather than combining them, I

21 think we'll just do them separately because the percentages are different on each

22 one. It probably be less confusing that way.

23           BENNY WAMPLER: Yeah. It's less confusing.

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DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, if you'd again state your name for the record, who you're employed by and in what capacity.

A. My name is Don Hall. I'm employed by Equitable Production Company as District Landman.

Q. And you're familiar the application that we filed seeking to pool any unleased interest in the unit for EPC number VC-536618 dated December the 16th, 2005?

A. Yes.

Q. Does Equitable own drilling rights in the unit involved here?

A. We do.

Q. Now, prior to filing the application, were efforts made to contact all the respondents and an attempt made to work out a voluntary agreement?

A. Yes.

Q. And what is the interest of Equitable under lease in the coal estate within this unit?

A. We have a 100% in the coal estate.

1 Q. And the interest of Equitable in the gas estate?

2 A. 0%.

3 Q. And that's the Yellow Popular interest?

4 A. Yes.

5 Q. Could you again...I know...I think most of the Board

6 members have been here for these Yellow Popular hearings. But just in case,

7 could you kind of go through that scenario again?

8 A. Yellow Popular was a lumber company that was in

9 existence in the early 1900s. They went bankrupted. The Court appointed Gally

10 Friend as the trustee to distribute the property. This piece of property never got

11 distributed. It's still in---.

12 Q. Or at least the gas estate?

13 A. It was the gas estate, right. The gas estate didn't get

14 distributed. That's all there was was the gas estate. We've...we've been trying to

15 figure this one out since about 1993, but we haven't been able to come up with

16 anything.

17 Q. And are all unleased parties set out in Exhibit B-3?

18 A. They are.

19 Q. Okay. And you just testified that you've made all

20 reasonable and diligent efforts to find any successors whether they be

21 shareholders or whatever of this Yellow Popular Lumber Company?

22 A. Yes.

23 Q. Okay. In your professional opinion, was due diligence

24

1 exercised to locate each of the respondents named in the application?

2 A. Yes.

3 Q. And are the addresses set out in Exhibit B to the  
4 application, the last known addresses for the respondents?

5 A. Yes.

6 Q. Are you requesting this Board to force pool all unleased  
7 interest as listed...as listed at Exhibit B-3?

8 A. Yes.

9 Q. And, again, you're familiar with the fair market value of  
10 drilling rights in the unit here and in the surrounding area?

11 A. Yes.

12 Q. Could you advise the Board, again, as to what those are?

13 A. A five dollar bonus with a five year term with a one-eighth  
14 royalty.

15 Q. In your opinion, do the terms you've just testified to  
16 represent the fair market value of and fair and reasonable compensation to be  
17 paid for drilling rights within this unit?

18 A. They do.

19 JIM KAISER: Mr. Chairman, at this time, as to the election options  
20 that would be afforded Yellow Popular, if they were ever...if we could ever find  
21 some successors, I'd ask that the testimony previously just taken in docket  
22 number 06-0117-1565 be incorporated for purposes of this hearing.

23 BENNY WAMPLER: That will be incorporated.

24

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1                   JIM KAISER: Thank you.

2                   Q.       We do need to establish an escrow account, is that right?

3                   A.       That's correct.

4                   Q.       And who should be named...and that will be for---?

5                   A.       For Yellow Popular.

6                   Q.       For Yellow Popular, right. And who should be named

7 operator under any force pooling order?

8                   A.       Equitable Production Company.

9                   Q.       And what's the total depth for this well?

10                  A.       2,027 feet.

11                  Q.       And the estimated reserves for the unit?

12                  A.       230 million cubic feet.

13                  Q.       And have you reviewed and seen the AFE that has been

14 signed and submitted to the Board as Exhibit C?

15                  A.       Yes.

16                  Q.       In your opinion, does it represent a reasonable estimate for

17 the well costs?

18                  A.       It does.

19                  Q.       Could you state both the dry hole costs and completed well

20 costs for this well?

21                  A.       The dry hole cost is \$122,161 and the total well cost is

22 \$342,796.

23                  Q.       And do these costs anticipate a multiple completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge for  
3 supervision?

4 A. Yes.

5 Q. In your professional opinion, would the granting of this  
6 application be in the best interest of conservation, the prevention of waste and the  
7 protection of correlative rights?

8 A. Yes.

9 JIM KAISER: Nothing further of this witness at this time, Mr.  
10 Chairman.

11 BENNY WAMPLER: Questions from members of the Board?  
12 (No audible response.)

13 BENNY WAMPLER: Do you have anything further?

14 JIM KAISER: We'd ask that the application be approved as  
15 submitted.

16 BENNY WAMPLER: Is there a motion?

17 JIM McINTRYE: So moved.

18 BENNY WAMPLER: Motion to approve. Second?

19 BILL HARRIS: Second.

20 BENNY WAMPLER: Second. Any further discussion?  
21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying yes.  
23 (All Board members signify by saying yes.)  
24  
25

1                   BENNY WAMPLER: Opposed, say no.

2                   (No audible response.)

3                   BENNY WAMPLER: You have approval. Next is a petition from  
4   Equitable Production Company for pooling of conventional unit V-535433. This is  
5   docket number VGOB-06-0117-1564. We'd ask the parties that wish to address  
6   the Board in this matter to come forward at this time.

7                   JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall for  
8   Equitable Production Company.

9                   BENNY WAMPLER: The record will show no others. You may  
10   proceed.

11   DON HALL

12   DIRECT EXAMINATION

13   QUESTIONS BY MR. KAISER:

14                   Q.           Mr. Hall, are you familiar the application that we filed  
15   seeking to establish a drilling unit and pool any unleased interest for EPC V-  
16   535433, which was dated December the 16th, 2005?

17                   A.           Yes.

18                   Q.           And prior to filing this application, were efforts made to  
19   contact each of the respondents and an attempt made to work out a voluntary  
20   agreement?

21                   A.           Yes.

22                   Q.           And what is the interest under lease to Equitable within this  
23   unit?

24

--

1 A. We have a 96.97 acres.

2 Q. And so the percentage that remains unleased is 3.03%?

3 A. Yes.

4 Q. And are all unleased parties set out in Exhibit B-3?

5 A. They are.

6 Q. And here, again, our only unleased party, which is the

7 interest in Tract 3, are the unknown Joseph Kiser Heirs?

8 A. That's correct.

9 Q. And, again, you and your staff made reasonable and

10 diligent efforts to identify and locate the unknown Joseph Kiser Heirs, including

11 checking out primary sources such as deed records, probate records, assessor's

12 records, treasurer's records and secondary sources such as telephone

13 directories, city directories, family and friends?

14 A. Yes.

15 Q. In your professional opinion, was due diligence exercised

16 to locate each of the respondents named in Exhibit B?

17 A. It was.

18 Q. And are the addresses set out in Exhibit B, the last known

19 addresses for the respondents?

20 A. Yes.

21 Q. Are you requesting this Board to force pool all unleased

22 interest listed at Exhibit B-3?

23 A. Yes.

24

--

1 Q. And, again, are you familiar with...familiar with the fair  
2 market value of drilling rights in the unit here and in the surrounding area?

3 A. Yes.

4 Q. Could you advise the Board, again, as to what those are?

5 A. A five dollar bonus with a five year term and a one-eighth  
6 royalty.

7 Q. In your opinion, do these terms you've just testified to  
8 represent the fair market value of and fair and reasonable compensation to be  
9 paid for drilling rights within this unit?

10 A. They do.

11 JIM KAISER: Mr. Chairman, again, we'd ask that the election option  
12 testimony taken in 1565 earlier be incorporated for purposes of this hearing.

13 BENNY WAMPLER: That will be incorporated.

14 Q. Mr. Hall, we do need to establish an escrow for any  
15 proceeds attributable to Tract 3, is that right?

16 A. That's correct.

17 Q. And who should be named operator under this order?

18 A. Equitable Production Company.

19 Q. And what's the total depth of the well?

20 A. 600...6,621 feet.

21 Q. Can you say that again?

22 A. 6,621 feet.

23 Q. And what are the estimated reserves for this unit?

24

--

1 A. 200 million cubic feet.

2 Q. Has an AFE been reviewed, signed and submitted to the

3 Board?

4 A. It has.

5 Q. In your opinion, does it represent a reasonable estimate of

6 the well costs?

7 A. Yes.

8 Q. Could you state for the Board the dry hole costs and

9 completed well costs for this well?

10 A. The dry hole cost is \$340,887 and the complete well cost is

11 \$545,669.

12 Q. And do these costs anticipate a multiple completion?

13 A. They do.

14 Q. Does your AFE include a reasonable charge for

15 supervision?

16 A. Yes.

17 Q. In your professional opinion, would the granting of this

18 application be in the best interest of conservation, the prevention of waste and the

19 protection of correlative rights?

20 A. Yes.

21 JIM KAISER: Nothing further of this witness at this time, Mr.

22 Chairman.

23 BENNY WAMPLER: Questions from members of the Board?

24

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 JIM KAISER: We'd ask that the application be approved as

4 submitted.

5 BENNY WAMPLER: Is there a motion?

6 JAMES McINTRYE: Motion to approve.

7 PEGGY BARBAR: I'll second.

8 BENNY WAMPLER: Second. Any further discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying yes.

11 (All Board members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. Next is a petition from

15 Equitable Production Company for pooling of coalbed methane unit VC-536548,

16 which is docket number VGOB-06-0117-1566. We'd ask the parties that wish to

17 address the Board in this matter to come forward at this time.

18 JIM KAISER: Mr. Chairman, again, Don Hall and Jim Kaiser. We

19 have...I guess, just two this time, Don?

20 DON HALL: Three.

21 JIM KAISER: Actually, we have three that the unleased interest or

22 what we call the Smith/Dotson interest. But, again, the percentages are different

23 in each well. So, we'll just go through them.

24

1                    BENNY WAMPLER: Okay.

2

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DON HALL

5

DIRECT EXAMINATION

6    QUESTIONS BY MR. KAISER:

7                    Q.        Don, you're familiar with the application that we filed  
8    seeking to pool any unleased interest in the unit for EPC number VC-536548,  
9    which was dated December the 16th, 2005?

10                  A.        Yes.

11                  Q.        Does Equitable own drilling rights in the unit involved  
12    here?

13                  A.        We do.

14                  Q.        Now, prior to filing the application, were efforts made to  
15    contact each of the respondents named in the unit and an attempt made to work  
16    out a voluntary lease agreement?

17                  A.        Yes.

18                  Q.        And what is the interest under lease to Equitable within the  
19    gas estate?

20                  A.        We have 99.779167% leased.

21                  Q.        And the interest under lease in the coal estate?

22                  A.        A 100%.

23                  Q.        And all unleased parties are set out in Exhibit B-3?

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1 A. That's correct.

2 Q. So, the percentage of the gas estate that remains unleased  
3 is 0.2208?

4 A. Yes.

5 Q. Okay. This particular unit does not have any unleased  
6 parties, right...I mean, unknown parties?

7 A. No.

8 Q. In your professional opinion, was due diligence exercised  
9 to locate everybody named in Exhibit B?

10 A. Yes.

11 Q. And are the addresses in Exhibit B to the application, the  
12 last known addresses?

13 A. Yes.

14 Q. Are you requesting this Board to force pool all unleased  
15 interest as they appear in Exhibit B-3?

16 A. Yes.

17 Q. And, again, are you familiar with the fair market value of  
18 drilling rights in the unit here and in the surrounding area?

19 A. Yes.

20 Q. Could you advise the Board as to what those are?

21 A. A five dollar bonus with a five year term with a one-eighth  
22 royalty.

23 Q. In your opinion, do the terms you've just testified to  
24

1 represent the fair market value of and fair and reasonable compensation to be  
2 paid for drilling rights within this unit?

3 A. They do.

4 JIM KAISER: Again, Mr. Chairman, we'd ask that the election  
5 testimony incorporated...or taken in item 15...docket number 1565 be incorporated  
6 for purposes of this hearing.

7 BENNY WAMPLER: That will be incorporated.

8 Q. Now, we do have a...the Board does need to establish an  
9 escrow account for the proceeds attributable to Tract 3, is that correct, because of  
10 a conflicting claim?

11 A. That's correct.

12 Q. And who should be named operator under any force  
13 pooling order?

14 A. Equitable Production Company.

15 Q. And what's the total proposed depth for this well?

16 A. 2339 feet.

17 Q. And the estimated reserves?

18 A. It's 330 million cubic feet.

19 Q. Now, are you familiar with the AFE that has been reviewed,  
20 signed and submitted to the Board as Exhibit C to the application?

21 A. Yes.

22 Q. In your opinion, does it represent a reasonable estimate of  
23 for the well costs?

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1 A. It does.

2 Q. Could you state for the Board both the dry hole costs and  
3 completed well costs for this well?

4 A. The dry hole cost is \$114,458 and the completed well cost  
5 is \$310,859.

6 Q. And do these costs anticipate a multiple completion?

7 A. They do.

8 Q. Does your AFE include a reasonable charge for  
9 supervision?

10 A. Yes.

11 Q. In your professional opinion, would the granting of this  
12 application be in the best interest of conservation, the prevention of waste and the  
13 protection of correlative rights?

14 A. Yes.

15 JIM KAISER: Nothing further of this witness at this time, Mr.  
16 Chairman.

17 BENNY WAMPLER: Questions from members of the Board?

18 BILL HARRIS: Mr. Chairman.

19 BENNY WAMPLER: Mr. Harris.

20 BILL HARRIS: The plat shows the...this is a CBM well, is that right?

21 DON HALL: Yes.

22 BILL HARRIS: In the lower left side there, is there a reason why it  
23 wasn't in the main square?

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1           BENNY WAMPLER: Why it wasn't in the window?

2           BILL HARRIS: Why it wasn't in the window? I mean, was it---?

3           DON HALL: I'm sure there was. I think this well has already been

4 permitted. Those exceptions are done through the permitting process. I'm not

5 familiar with why it was there. If I'm not mistaken, I believe this one has already

6 been permitted hasn't it, Bob?

7           BOB WILSON: Yes. As I remember on this one, there were...this

8 was a location picked by the coal company because they have activities going on

9 inside the interior window, I think. I'm not...couldn't be absolutely certain.

10          BENNY WAMPLER: Other questions from members of the Board?

11          (No audible response.)

12          BENNY WAMPLER: Do you have anything further?

13          JIM KAISER: Mr. Chairman, we'd ask that the application be

14 approved as submitted.

15          BENNY WAMPLER: Is there a motion?

16          JAMES McINTRYE: So moved.

17          BENNY WAMPLER: Motion for approval.

18          BILL HARRIS: Second.

19          BENNY WAMPLER: Second. Any further discussion?

20          (No audible response.)

21          BENNY WAMPLER: All in favor, signify by saying yes.

22          (All Board members signify by saying yes.)

23          BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval. Next is a petition from  
3 Equitable Production Company for pooling of coalbed methane unit VC-536545.  
4 This is docket number VGOB-06-0117-1567. We'd ask the parties that wish to  
5 address the Board in this matter to come forward at this time.

6 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on  
7 behalf of Equitable Production Company. Again, we're pooling the Smith and  
8 Dotson interest.

9 BENNY WAMPLER: The record will show no others. You may  
10 proceed.

11 DON HALL

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. KAISER:

14 Q. Mr. Hall, you're familiar the application we have filed  
15 seeking to pool any unleased interest in the unit for EPC VC-536545, application  
16 being dated December the 16th, 2005?

17 A. Yes.

18 Q. Does Equitable own drilling rights in the unit here?

19 A. Yes.

20 Q. Prior to filing the application, were efforts made to contact  
21 each of the respondents in the unit and an attempt made to work out a voluntary  
22 lease agreement?

23 A. Yes.

24

--

1 Q. And what is the interest of Equitable under lease in the gas  
2 estate in the unit?  
3 A. We have 99.441667% leased.  
4 Q. What's the interest of Equitable under lease in the coal  
5 estate?  
6 A. 100%.  
7 Q. And are all the unleased parties set out in Exhibit B-3?  
8 A. They are.  
9 Q. So, the only thing that remains unleased in this unit is  
10 .0...excuse me, 0.558333% of the gas estate?  
11 A. That's correct.  
12 Q. Okay. We don't have any unknown or unlocateable  
13 owners in this unit?  
14 A. No.  
15 Q. In your professional opinion, was due diligence exercised  
16 to locate everybody who has an interest in this unit?  
17 A. Yes.  
18 Q. And are all the addresses...the last known addresses for  
19 the interest owners set out in Exhibit B?  
20 A. They are.  
21 Q. Are you requesting this Board to force pool all unleased  
22 interests as listed at Exhibit B-3?  
23 A. Yes.

24

25

1 Q. And you're familiar, again, with the fair market value of  
2 drilling rights here?

3 A. Yes.

4 Q. Could you, again, advise the Board as to what those are?

5 A. A five dollar bonus with a five year term with a one-eighth  
6 royalty.

7 Q. In your opinion, do the terms you've just testified to  
8 represent the fair market value of and fair and reasonable compensation to be  
9 paid for drilling rights within this unit?

10 A. Yes.

11 JIM KAISER: Again, Mr. Chairman, we'd ask that the testimony  
12 regarding the election options afforded the unleased parties be incorporated as it  
13 was taken in item fifteen, that being docket number 1565.

14 BENNY WAMPLER: That will be incorporated.

15 Q. Mr. Hall, we do have a conflicting claim in Tract 2. So, the  
16 Board needs to establish an escrow account for proceeds attributable to that  
17 tract?

18 A. That's correct.

19 Q. And who should be named operator under the order?

20 A. Equitable Production Company.

21 Q. And what's the total depth of this proposed well?

22 A. 2333 feet.

23 Q. The estimated reserves for the unit?

24

--

1 A. I'd like to correct the depth. It's 2583 feet.  
2 Q. And that's in accordance with the AFE?  
3 A. Yes.  
4 Q. Could you repeat that?  
5 A. The depth of the well is 2583 feet.  
6 Q. Okay. And the estimated reserves for the unit?  
7 A. 230 million cubic feet.  
8 Q. Has an AFE been reviewed, signed and submitted to the  
9 Board as Exhibit C?  
10 A. Yes.  
11 Q. In your opinion, does it represent a reasonable estimate of  
12 for the well costs?  
13 A. It does.  
14 Q. Could you state for the Board both the dry hole costs and  
15 completed well costs for this well?  
16 A. The dry hole cost is \$130,749 and the completed well cost  
17 is \$308,025.  
18 Q. And do these costs anticipate a multiple completion?  
19 A. They do.  
20 Q. Does your AFE include a reasonable charge for  
21 supervision?  
22 A. Yes.  
23 Q. In your professional opinion, would the granting of this  
24

1 application be in the best interest of conservation, the prevention of waste and the  
2 protection of correlative rights?

3 A. It would.

4 JIM KAISER: Nothing further of this witness at this time, Mr.  
5 Chairman.

6 BENNY WAMPLER: Questions from members of the Board?  
7 (No audible response.)

8 BENNY WAMPLER: Do you have anything further?

9 JIM KAISER: Again, we'd ask that the application be approved as  
10 submitted.

11 BENNY WAMPLER: Is there a motion?

12 JAMES McINTRYE: Motion to approve.

13 PEGGY BARBAR: I second.

14 BENNY WAMPLER: And a second. Any further discussion?  
15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying yes.  
17 (All Board members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.  
19 (No audible response.)

20 BENNY WAMPLER: You have approval. Next is a petition from  
21 Equitable Production Company for pooling of coalbed unit VC-535686. This is  
22 docket number VGOB-06-0117-1568. We'd ask the parties that wish to address  
23 the Board in this matter to come forward at this time.

24

--

1                    JIM KAISER: Again, Mr. Chairman, Jim Kaiser and Don Hall for  
2 Equitable. This is another one of our Yellow Popular wells. But it's a much  
3 smaller percentage, we're happy to say.

4                    BENNY WAMPLER: The record will show no others. You may  
5 proceed.

6    DON HALL

7    DIRECT EXAMINATION

8                    QUESTIONS BY MR. KAISER:

9                    Q.            Mr. Hall, you're familiar the application that we filed  
10 seeking to pool any unleased interest in the unit for EPC number VC-535686,  
11 which was dated December the 16th, 2005?

12                   A.            Yes.

13                   Q.            Does Equitable own drilling rights in the unit involved  
14 here?

15                   A.            We do.

16                   Q.            Now, prior to filing the application, were efforts made to  
17 contact each of the respondents in the unit and an attempt made to work out a  
18 voluntary agreement with each?

19                   A.            Yes.

20                   Q.            At this time, what is the interest of Equitable under lease in  
21 the gas estate within the unit?

22                   A.            We have a 70.95%.

23                   Q.            And the interest in the coal estate under lease?  
24  
25

1 A. 100%.

2 Q. And the unleased parties are set out at Exhibit B-3?

3 A. Yes.

4 Q. So, the only unleased percentage is 29.05% of the gas

5 estate and that represents the percentage that's owned by Yellow Popular?

6 A. That's correct.

7 Q. Okay. Again, you made reasonable and diligent efforts to

8 try to figure out who the successors to Yellow Popular might be?

9 A. Yes.

10 Q. In your professional opinion, was due diligence exercised

11 to locate each of the respondents named herein?

12 A. It was.

13 Q. And are the addresses set out in Exhibit B to the

14 application, the last known addresses for the respondents?

15 A. Yes.

16 Q. Are you requesting this Board to force pool all unleased

17 interest listed at Exhibit B-3?

18 A. Yes.

19 Q. And, again, are you familiar with the fair market value of

20 drilling rights in the unit here and in the surrounding area?

21 A. Yes.

22 Q. Again, advise the Board as to what those are?

23 A. A five dollar bonus with a five year term with a one-eighth

24

1 royalty.

2 Q. In your professional opinion, do the terms you've just  
3 testified to represent the fair market value of and fair and reasonable  
4 compensation to be paid for drilling rights within this unit?

5 A. Yes.

6 JIM KAISER: Again, Mr. Chairman, we're going to ask that the  
7 election testimony be incorporated.

8 BENNY WAMPLER: That will be incorporated.

9 Q. Okay. And, Mr. Hall, we do need to establish an escrow  
10 account for any proceeds that are attributable to all three tracts?

11 A. Yes.

12 Q. They're all in conflict, right?

13 A. Yes.

14 Q. Okay. So, it will be Tract 1, 2 and 3?

15 A. Yes.

16 Q. Okay. And who should be named operator under any force  
17 pooling order?

18 A. Equitable Production Company.

19 Q. And the total depth for this well?

20 A. 2321 feet.

21 Q. And the estimated reserves for the unit?

22 A. 230 million cubic feet.

23 Q. And has an AFE been reviewed, signed and submitted to  
24

1 the Board as Exhibit C?

2 A. It has.

3 Q. In your opinion, does it represent a reasonable estimate of  
4 the well costs?

5 A. Yes.

6 Q. Could you state both the dry hole costs and completed well  
7 costs for this well?

8 A. The dry hole cost is \$124,233 and the total well cost is  
9 \$389,406.

10 Q. And do these costs anticipate a multiple completion?

11 A. They do.

12 Q. Does your AFE include a reasonable charge for  
13 supervision?

14 A. Yes.

15 Q. In your professional opinion, would the granting of this  
16 application be in the best interest of conservation, the prevention of waste and the  
17 protection of correlative rights?

18 A. Yes.

19 JIM KAISER: Nothing further of this Chairman... of witness at this  
20 time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the Board?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?

24

--

1                    JIM KAISER: We'd ask that the application be approved as  
2 submitted.

3                    BENNY WAMPLER: Is there a motion?

4                    JAMES McINTRYE: So moved.

5                    BENNY WAMPLER: Motion to approve.

6                    BILL HARRIS: Second.

7                    BENNY WAMPLER: Second. Any further discussion?

8                    (No audible response.)

9                    BENNY WAMPLER: All in favor, signify by saying yes.

10                   (All Board members signify by saying yes.)

11                   BENNY WAMPLER: Opposed, say no.

12                   (No audible response.)

13                   BENNY WAMPLER: You have approval. Next is a petition from  
14 Equitable Production Company for pooling of coalbed methane unit VC-536613.  
15 This is docket number VGOB-06-0117-1569. We'd ask the parties that wish to  
16 address the Board in this matter to come forward at this time.

17                   JIM KAISER: Mr. Chairman and Board members, again, Jim Kaiser  
18 and Don Hall on behalf of Equitable Production Company. This is our, for this  
19 month anyway, our last Yellow Popular well. This is another 100%.

20

21    DON HALL

22    DIRECT EXAMINATION

23                   QUESTIONS BY MR. KAISER:

24

--

1 Q. Mr. Hall, again, you're familiar the application that we filed  
2 seeking to pool any unleased interest in the unit for EPC number VC-536613,  
3 dated December the 16th, 2005?

4 A. Yes.

5 Q. Does Equitable own drilling rights in the unit involved  
6 here?

7 A. We do.

8 Q. And what is the interest under lease to Equitable in the  
9 coal estate within the unit?

10 A. We have a 100% in the coal estate leased.

11 Q. And the interest under lease in the gas estate?

12 A. 0.

13 Q. Okay. And that, again, is the Yellow Popular situation?

14 A. Yes.

15 Q. Okay. In your professional opinion, was due diligence  
16 exercised to locate each of the respondents named?

17 A. Yes.

18 Q. And are the addresses set out in Exhibit B to the  
19 application, the last known addresses for the respondents?

20 A. Yes.

21 Q. Are you requesting this Board to force pool all unleased  
22 interest as they are listed at Exhibit B-3 to the application?

23 A. We are.

24

1 Q. And, again, are you familiar with the fair market value of  
2 drilling rights in the unit here and in the surrounding area?

3 A. Yes.

4 Q. Could you advise the Board as to what those are?

5 A. A five...a five dollar bonus with a five year term with a one-  
6 eighth royalty.

7 Q. In your opinion, do the terms you've just testified to  
8 represent the fair market value of and fair and reasonable compensation to be  
9 paid for drilling rights within this unit?

10 A. They do.

11 JIM KAISER: Again, Mr. Chairman, we'd ask that the election  
12 testimony from item fifteen be incorporated for purposes of this hearing.

13 BENNY WAMPLER: That will be incorporated.

14 Q. Mr. Hall, we do need to establish an escrow account---?

15 A. That's correct.

16 Q. ---to account for Tract 1, which is the whole unit?

17 A. Yes.

18 Q. And who should be named operator under any force  
19 pooling order?

20 A. Equitable Production Company.

21 Q. The total depth for this well?

22 A. 17...1977 feet.

23 Q. The estimated reserves?

24

1 A. 230 million cubic feet.

2 Q. Now, has an AFE been reviewed, signed and submitted to  
3 the Board?

4 A. It has.

5 Q. In your opinion, does it represent a reasonable estimate of  
6 the well costs for this well?

7 A. Yes.

8 Q. Could you state both the dry hole costs and completed well  
9 costs for this well?

10 A. The dry hole cost is \$119,116 and the completed well cost  
11 is \$279,029.

12 Q. Do these costs anticipate a multiple completion?

13 A. They do.

14 Q. Does your AFE include a reasonable charge for  
15 supervision?

16 A. Yes.

17 Q. In your professional opinion, would the granting of this  
18 application be in the best interest of conservation, the prevention of waste and the  
19 protection of correlative rights?

20 A. Yes.

21 JIM KAISER: Nothing further of this witness on this item, Mr.  
22 Chairman.

23 BENNY WAMPLER: Questions from members of the Board?  
24  
25

1 (No audible response.)  
2 BENNY WAMPLER: Do you have anything further?  
3 JIM KAISER: We'd ask that the application, again, be approved as  
4 submitted.  
5 BENNY WAMPLER: Is there a motion?  
6 JAMES McINTRYE: So moved.  
7 BENNY WAMPLER: Motion for approval.  
8 BILL HARRIS: Second.  
9 BENNY WAMPLER: Second. All in favor, signify by saying yes.  
10 (All Board members signify by saying yes.)  
11 BENNY WAMPLER: Opposed, say no.  
12 (No audible response.)  
13 BENNY WAMPLER: You have approval. Next is a petition from  
14 Equitable Production Company for pooling of coalbed methane unit VC-5301905,  
15 docket number VGOB-06-0117-1570. We'd ask the parties that wish to address  
16 the Board in this matter to come forward at this time.  
17 JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall on  
18 behalf of Equitable Production Company. This is another Smith/Dotson well.  
19 BENNY WAMPLER: The record will show no others. You may  
20 proceed.

21  
22  
23  
24  
25

DON HALL  
DIRECT EXAMINATION

1 QUESTIONS BY MR. KAISER:

2 Q. Now, Mr. Hall, are you familiar the application that we filed  
3 seeking to pool any unleased interest in the unit for Equitable well VC-501905,  
4 dated December the 16th, 2005?

5 A. Yes.

6 Q. Does Equitable own drilling rights in the unit involved  
7 here?

8 A. We do.

9 Q. Now, prior to filing this application, were efforts made to  
10 contact each of the interest owners within the unit---?

11 A. Yes.

12 Q. ---and an attempt made to work out a voluntary lease  
13 agreement?

14 A. Yes.

15 Q. And what is the interest under lease to Equitable in the gas  
16 estate in the unit?

17 A. We have 95.04584% leased.

18 Q. And the interest under lease to Equitable in the coal  
19 estate?

20 A. 100%.

21 Q. And are all unleased parties set out in Exhibit B-3?

22 A. Yes.

23 Q. So, the only interest that remains unleased is 4.954167%

24

--

1 of the gas estate, is that correct?

2 A. That's correct.

3 Q. You don't have any unknown or unlocateable owners in  
4 this unit, right?

5 A. Right.

6 Q. So, in your opinion, was due diligence exercised to locate  
7 each of the respondents named in the application?

8 A. Yes.

9 Q. And are the addresses set out in Exhibit B to the  
10 application, the last known addresses for the respondents?

11 A. Yes.

12 Q. Are you requesting this Board to force pool all unleased  
13 interest listed at Exhibit B-3?

14 A. Yes.

15 Q. And, again, are you familiar with the fair market value of  
16 drilling rights in the unit here and in the surrounding area?

17 A. Yes.

18 Q. Again, advise the Board as to what those are?

19 A. A five dollar bonus with a five year term and a one-eighth  
20 royalty.

21 Q. In your opinion, do the terms you've just testified to  
22 represent the fair market value of and fair and reasonable compensation to be  
23 paid for drilling rights within this unit?

24

1                   A.           They do.

2                   JIM KAISER: Mr. Chairman, again, we'd ask that the election option  
3 testimony be incorporated for purposes of this hearing.

4                   BENNY WAMPLER: That will be incorporated.

5                   Q.           Now, Mr. Hall, we do...we do not have any unknowns, but  
6 we do have a conflicting claim to Tract 3. So, an escrow account does need to be  
7 set up to...for any proceeds attributable to that tract, is that correct?

8                   A.           That's correct.

9                   Q.           And who should be named operator under any force  
10 pooling order?

11                  A.           Equitable Production Company.

12                  Q.           And what's the total depth for this proposed well?

13                  A.           2934 feet.

14                  Q.           And the estimated reserves?

15                  A.           330 million cubic feet.

16                  Q.           Now, has an AFE been reviewed, signed and submitted to  
17 the Board with the application as Exhibit C?

18                  A.           Yes.

19                  Q.           In your opinion, does it represent a reasonable estimate of  
20 the well costs?

21                  A.           It does.

22                  Q.           Could you state for the Board the dry hole costs and  
23 completed well costs for this well?

24

1                   A.       The dry hole cost is \$160,539 and the completed well cost  
2 is \$347,780.

3                   Q.       Do these costs anticipate a multiple completion?

4                   A.       They do.

5                   Q.       Does your AFE include a reasonable charge for  
6 supervision?

7                   A.       Yes.

8                   Q.       In your professional opinion, would the granting of this  
9 application be in the best interest of conservation, the prevention of waste and the  
10 protection of correlative rights?

11                  A.       Yes.

12                  JIM KAISER: Nothing further of this witness at this time, Mr.  
13 Chairman.

14                  BENNY WAMPLER: Questions from members of the Board?  
15 (No audible response.)

16                  BENNY WAMPLER: Do you have anything further?

17                  JIM KAISER: We'd, again, ask that the application be approved as  
18 submitted, Mr. Chairman.

19                  BENNY WAMPLER: Is there a motion?

20                  BILL HARRIS: I move for approval.

21                  JAMES McINTRYE: Second.

22                  BENNY WAMPLER: Motion is second. Any further discussion?  
23 (No audible response.)

24

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1           BENNY WAMPLER: All in favor, signify by saying yes.  
2           (All Board members signify by saying yes.)  
3           BENNY WAMPLER: Opposed, say no.  
4           (No audible response.)  
5           BENNY WAMPLER: You have approval.  
6           DON HALL: Thank you.  
7           BENNY WAMPLER: Thank you.  
8           JIM KAISER: Might we go ahead and skip down to twenty-six and  
9 twenty-seven since it's Equitable's last two. Anybody have any objection to that?  
10          BENNY WAMPLER: If it's okay with your clients, it's okay with me.  
11          JIM KAISER: There waiting for lunch anyway. They don't care.  
12          BENNY WAMPLER: Did they give you the go ahead?  
13          JIM KAISER: Is that all right?  
14          LYNETTE GREENE: Yes.  
15          BENNY WAMPLER: Twenty-six and twenty-seven?  
16          JIM KAISER: Yeah.  
17          BENNY WAMPLER: All right. Next is a petition from Equitable  
18 Production Company for disbursement of escrowed funds and authorization for  
19 direct payment of future royalties on a portion of Tract 2 and coalbed methane  
20 unit VAD-3738, docket number VGOB-97-1021-0612-01. We'd ask the parties  
21 that wish to address the Board in this matter to come forward at this time.  
22          JIM KAISER: Well, normally, Don Hall does these on behalf of  
23 Equitable. For some reason, I'm being made to do this one. This is a dual well  
24

1 that we pooled back in 1997. That's why you have that VAD number. In other  
2 words, it's  
3 a--.

4 BENNY WAMPLER: Do we need to get you sworn?

5 JIM KAISER: Oh, I guess.

6 (Laughs.)

7 BENNY WAMPLER: You're testifying.

8 (Jim Kaiser is duly sworn.)

9 BENNY WAMPLER: Continue.

10 JIM KAISER: So...I don't know if you've done any of these in recent  
11 memory. But it seems like it was the thing for a while---

12 DON HALL: We haven't done any in a while.

13 JIM KAISER: ---back then. Anyway, so we formed two different  
14 units, a conventional unit and a CBM unit. They're producing from...out of the  
15 same bore from both units and there was a bunch of unknown respondents back  
16 in '97 in this...in these units and low and beyond sometime in the fall of 2005 we  
17 did find one of them or one came forward to Equitable and the gentleman...I  
18 guess, it's a...yeah, obviously, it's a man, Shane Christopher Hancock. So, what  
19 we want to do, I have a printout of all the disbursements that have been made in  
20 what attribute... what...the map on what should be attributable to his interest. This  
21 is out of both units. What we would like to do is ask that the Board disburse the  
22 amount due and owing to him, which is \$29.41. Then on a going forward basis,  
23 direct Equitable to pay his share of his royalties directly to him.

24

--

1                   BENNY WAMPLER: Is he able to share any information on any of  
2 the other Hancock heirs?  
3                   DON HALL: Yeah, we...we found quite a few when we did the last  
4 well out there, the 3807.  
5                   BOB WILSON: Mr. Chairman.  
6                   BENNY WAMPLER: Mr. Wilson.  
7                   BOB WILSON: Did you give notice to Shane Christopher Hancock?  
8                   JIM KAISER: Yeah.  
9                   BOB WILSON: I don't have an update---.  
10                  JIM KAISER: You don't have an affidavit of mailing?  
11                  (No audible response.)  
12                  JIM KAISER: Well, do you want a green card? I don't know why  
13 she didn't do one.  
14                  BOB WILSON: Sure, that would be acceptable on the proof notice.  
15                  BENNY WAMPLER: Okay. Any questions from members of the  
16 Board?  
17                  (No audible response.)  
18                  JIM KAISER: I'll get a copy and send it to you.  
19                  BOB WILSON: Okay.  
20                  BENNY WAMPLER: Do you have anything---?  
21                  JIM KAISER: And we did file two application since it was two  
22 different units. We were...Mr. Wilson's office asked us to do it that way.  
23                  BENNY WAMPLER: Do you have anything further?  
24

1 (No audible response.)

2 BENNY WAMPLER: No. We'd just ask that he be...disburse that

3 money and that the order direct us to pay him instead of into escrow for his pro-

4 rata share.

5 BENNY WAMPLER: Is there a motion?

6 JAMES McINTYRE: So moved.

7 SHARON PIGEON: Did you get his social?

8 JIM KAISER: Ma'am?

9 SHARON PIGEON: Did you get his social?

10 JIM KAISER: I don't know. Is his social on there? Equitable

11 probably has it.

12 BOB WILSON: Yeah, we'll need it.

13 JIM KAISER: I'll get it...I'll get it from Leslie Smith for you.

14 BENNY WAMPLER: I have a motion to approve.

15 JAMES McINTYRE: So moved.

16 BENNY WAMPLER: Is there a second?

17 BILL HARRIS: Second.

18 BENNY WAMPLER: Second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying yes.

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

~

1           BENNY WAMPLER: You have approval.

2           BILL HARRIS: Was that the twenty-six and twenty-seven?

3           JIM KAISER: Thank you. Yeah. Yeah, it was twenty-six and  
4 twenty-seven. You called them together, right?

5           BENNY WAMPLER: I didn't.

6           JIM KAISER: We didn't? Can you go back and call them together?

7           BENNY WAMPLER: Pardon?

8           JIM KAISER: Can we go back and call them together?

9           BENNY WAMPLER: Well, we can just...we can just ditto it.

10          JIM KAISER: Yeah.

11          BENNY WAMPLER: Next on the agenda is a petition from Equitable  
12 Production Company for disbursement of escrowed funds and authorization for  
13 direct payment of future royalties. This is docket number VGOB-97-1021-0613-  
14 01. The same decision and the same discussion for that one. All right, twenty-  
15 one was docket number VGOB-06-0117-1571, is that continued? You said---.

16          JIM KAISER: Yes, we'd ask that that be continued until the  
17 February docket?

18          BENNY WAMPLER: All right. And docket number VGOB-06-0117-  
19 1572, is that continued?

20          JIM KAISER: Yes, we're also asking that that be continued until the  
21 February docket.

22          BENNY WAMPLER: That's continued. Next on the agenda is a  
23 petition from Columbia Natural Resources, LLC for pooling of conventional unit  
24

1 825605, docket number VGOB-06-0117-1573. We'd ask the parties that wish to  
2 address the Board in this matter to come forward at this time.

3 JIM KAISER: Mr. Chairman, in this matter, Jim Kaiser, Lynette  
4 Green and Robert Keenon on behalf of Columbia Natural Resources.

5 JILL HARRISON: Mr. Chairman, I'm Jill Harrison. I'm with Penn,  
6 Stuart & Eskridge. I'm here to represent Buchanan Energy Company, LLC.

7 BENNY WAMPLER: The record will show no others. You may  
8 proceed.

9  
10 JIM KAISER: Okay. This is a unit where we're pooling...Buchanan  
11 Energy's interest has been purchased by Alpha. The Buchanan Energy lease to  
12 my client did not include a pooling clause. In the past, when we have had units  
13 that had...that we had to come and get a Board order for that had their acreage in  
14 it, we...they agreed to modify the lease for purposes of that unit to include pooling.  
15 I was going to revise this exhibit. We have not been able to modify the lease for  
16 purposes of these two units, this one and the next item on the docket with the  
17 folks from Alpha. We're working on that. We were...I was...I did revise my  
18 exhibits to include a depiction of them being pooled for unitilization purposes. We  
19 did not...although we not...notified Buchanan Energy/Alpha, since it is a  
20 conventional well and we're establishing the unit also though, we did notify them  
21 of this hearing in a timely fashion. We did not notify them that we were going to  
22 pool them for unitilization purposes in a timely fashion. So, what we're going to  
23 do is, we're going to go ahead and pool the CNX lease, which is the Crowell

24

--

1 Estate tract on both of these units. It's varying portions of the unit depending on  
2 which one it is. Then do one of either of two things: One, we would hope that  
3 between now and February the 21st that we can work out an agreement to modify  
4 the lease to include pooling so that we don't have to come back. But if we can't,  
5 then we'll just repool it in February to pool Tract 1 of both of the units for  
6 unitilization purposes. I know that's a little confusing. But does it make sense?

7 BENNY WAMPLER: It does to me.

8 JIM KAISER: Does that sound right to you?

9 JILL HARRISON: Yes, sir.

10 JIM KAISER: Okay. So, what's the first one?

11 LYNETTE GREEN: 25605.

12 JIM KAISER: 25605.

13 JILL HARRISON: And with Mr. Kaiser having said that, since the  
14 Buchanan Energy portion will not be heard, I'm going to excuse myself from the  
15 hearing with the permission of the Board.

16 BENNY WAMPLER: Okay. Very...very good. That's for this one  
17 and the next one as well?

18 JILL HARRISON: Yes, sir.

19 BENNY WAMPLER: Okay. That's fine.

20 JILL HARRISON: Thank you very much.

21 BENNY WAMPLER: Thank you.

22 JILL HARRISON: I appreciate it.

23 JIM KAISER: We'd ask that Ms. Green and Mr. Keenon be sworn,  
24  
25

1 please.

2 (Lynette Green and Robert Keenon are duly sworn.)

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1 LYNETTE GREEN

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5 Q. We'll start with Ms. Green. Ms. Green, could you state  
6 who you're employed by and in what capacity?

7 A. I'm a senior land representative with Chesapeake Energy  
8 Corporation.

9 Q. And do your responsibilities include the land involved here  
10 and in the surrounding area?

11 A. Yes.

12 Q. Maybe we'd better start...maybe we'd better backup before  
13 we even get started here. We filed these applications as Columbia Natural  
14 Resources, LLC. That's still okay, right?

15 A. Until next month.

16 Q. Okay.

17 A. Until in February.

18 Q. Okay.

19 BOB WILSON: Mr. Chairman.

20 BENNY WAMPLER: Mr. Wilson.

21 BOB WILSON: It will continue to be Columbia Natural Resources  
22 until permanents are transferred to another entity---.

23 BENNY WAMPLER: Right.

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1                   BOB WILSON: ---as far as we're concerned.

2                   JIM KAISER: Okay. I just wanted to make sure you all realize we're  
3 filing these things in the right name.

4                   BENNY WAMPLER: Right.

5                   SHARON PIGEON: That's good.

6                   JIM KAISER: You like that, don't you?

7                   SHARON PIGEON: Thanks for putting that on the record.

8                   Q.           Ms. Green, do your responsibilities include the land  
9 involved here and in the surrounding area?

10                  A.           Yes.

11                  Q.           And you're familiar with the application that we filed  
12 seeking to establish a drilling unit and pool any unleased interest in the unit for  
13 CNR well number 825605, which was dated December the 16th, 2005?

14                  A.           Yes.

15                  Q.           And does CNR own drilling rights in the involved here?

16                  A.           Yes.

17                  Q.           And prior to filing the application, were efforts made to  
18 contact each of the interest owners within the unit and an attempt to work out a  
19 voluntary agreement?

20                  A.           Yes.

21                  Q.           And what is the interest of CNR that is under lease within  
22 this unit?

23                  A.           90.513799%.

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1 Q. And you're familiar with the ownership of drilling rights of  
2 parties other than CNR underlying this unit?

3 A. Yes, I am.

4 Q. And what percentage remains unleased?

5 A. 9.486201.

6 Q. And are all the unleased parties set out in Exhibit B-3?

7 A. Yes.

8 Q. And we don't have any unknown or unlocateable parties,  
9 do we?

10 A. No, we don't.

11 Q. And in your professional opinion, was due diligence  
12 exercised to locate each of the respondents named?

13 A. Yes.

14 Q. And are the addresses set out in Exhibit B to the  
15 application, the last known addresses for the respondents?

16 A. Yes.

17 Q. And are you requesting this Board to force pool all  
18 unleased interest listed at Exhibit B-3?

19 A. Yes.

20 Q. Are you familiar with the fair market value of drilling rights  
21 in the unit here and in the surrounding area?

22 A. Yes.

23 Q. Could you advise the Board as to what those are?

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1                   A.           It's a five dollar bonus, a five year term with a one-eighth  
2 royalty.

3                   Q.           In your opinion, do the terms you've just testified to  
4 represent the fair market value of and the fair and reasonable compensation to be  
5 paid for drilling rights within this unit?

6                   A.           Yes.

7                   JIM KAISER: Mr. Chairman, is it your wish that we go through the  
8 election testimony?

9                   BENNY WAMPLER: You can incorporate it.

10                  JIM KAISER: Okay. We'd ask that it be incorporated from the  
11 previous hearing purposes of this hearing.

12                  Q.           Ms. Green, we do not need to establish an escrow account  
13 in this case, is that correct?

14                  A.           That's correct.

15                  Q.           And who should be named operator under any force  
16 pooling order?

17                  A.           Columbia Natural Resources.

18                  JIM KAISER: That's all I have for this witness at this time, Mr.  
19 Chairman.

20                  BENNY WAMPLER: Questions from members of the Board?

21                  (No audible response.)

22                  JIM KAISER: Call your next witness.

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1 ROBERT LEE KEENON

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5 Q. Mr. Keenon, if you'd state your name for the Board, who  
6 you're employed by and in what capacity?

7 A. Robert Lee Keenon. I'm the Southwest District Manager  
8 for Chesapeake Energy.

9 Q. And do your responsibilities include the land involved here  
10 and in the surrounding area?

11 A. They do.

12 Q. And you're familiar with the proposed exploration and  
13 development of this unit?

14 A. I am.

15 Q. And what's the total depth of the proposed well?

16 A. 5,825 feet.

17 Q. And the estimated reserves for the unit?

18 A. 400 million standard cubic feet.

19 Q. Are you familiar with the well costs?

20 A. Yes.

21 Q. Has an AFE been reviewed, signed and submitted to the  
22 Board?

23 A. It has.

24

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1 Q. In your opinion, does it represent a reasonable estimate of  
2 the well costs?

3 A. It does.

4 Q. And what are the dry hole costs and completed well costs  
5 for this well?

6 A. The estimated dry hole costs are \$241,067 and the  
7 anticipated completed well costs, including the pipeline, are \$460,376.

8 Q. Do these costs anticipate a multiple completion?

9 A. They do.

10 Q. Does your AFE include a reasonable charge for  
11 supervision?

12 A. It does.

13 Q. In your professional opinion, would the granting of this  
14 application be in the best interest of conservation, the prevention of waste and the  
15 protection of correlative rights?

16 A. It would.

17 JIM KAISER: Nothing further of this witness at this time, Mr.  
18 Chairman.

19 BENNY WAMPLER: Any questions from members of the Board?

20 BILL HARRIS: Mr. Chairman, just one---.

21 BENNY WAMPLER: Mr. Harris.

22 BILL HARRIS: ---comment about the AFE. There are no decimal  
23 points separating dollars and cents. I was just a little curious about that.  
24

1                   JIM KAISER: It looks to me like it's just rounded it up to dollars.  
2                   ROBERT L. KEENON: It is.  
3                   BILL HARRIS: Well, your...oh, okay. I'm sorry, I missed...I thought  
4 you...well, I thought I heard you say 67 cents and I was looking at the 67...okay,  
5 okay.  
6                   BENNY WAMPLER: Other questions?  
7                   BILL HARRIS: I guess, I'm okay.  
8                   BENNY WAMPLER: Do you have anything further, Mr. Kaiser?  
9                   JIM KAISER: No. Mr. Chairman, we'd ask that the application be  
10 approved as submitted, you know, with the fact...the introductory comments, you  
11 know, where we might be back on this well next month to---.  
12                   BENNY WAMPLER: Okay. All right, is there a motion?  
13                   JAMES McINTYRE: So moved.  
14                   BENNY WAMPLER: Motion for approval.  
15                   PEGGY BARBAR: I second.  
16                   BENNY WAMPLER: Second. Any further discussion?  
17 (No audible response.)  
18                   BENNY WAMPLER: All in favor, signify by saying yes.  
19 (All members signify by saying yes.)  
20                   BENNY WAMPLER: Opposed, say no.  
21 (No audible response.)  
22                   BENNY WAMPLER: You have approval. The next item on the  
23 agenda is a petition from Columbia Natural Resources, LLC for pooling of  
24

1 conventional unit 825811. This is docket number VGOB-06-0117-1574. We'd  
2 ask the parties that wish to address the Board in this matter to come forward at  
3 this time.

4 JIM KAISER: Mr. Chairman and Board members, again, Jim Kaiser,  
5 Lynette Green and Robert Keenon on behalf of CNR. This is a mirror image to  
6 the well that we just pooled with cavot that the interest that is leased to CNX that  
7 we're pooling is a tiny bit smaller than it was in the previous well.

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1 LYNETTE GREEN

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5 Q. But, again, Ms. Green, if you would...you're familiar with  
6 the application that we filed seeking not only to establish this drilling unit, but to  
7 pool any interest unleased to us for well number 825811, which was dated  
8 December the 16th, 2005?

9 A. Yes.

10 Q. And prior to filing the application, were efforts made to  
11 contact each of the interest owners within the unit and an attempt to work out a  
12 voluntary agreement?

13 A. Yes.

14 Q. And what is the interest under lease to CNR in the unit?

15 A. 91.170468.

16 Q. And the percentage that is unleased at this time?

17 A. 8.829532.

18 Q. And are all the unleased parties set out at Exhibit B-3?

19 A. Yes.

20 Q. And we don't have any unknown or unlocateable owners,  
21 is that correct?

22 A. That's correct.

23 Q. And are the addresses set out in Exhibit B to the  
24

1 application, the last known addresses for the respondents?

2 A. Yes.

3 Q. And are you requesting this Board to force pool all

4 unleased interest listed at Exhibit B-3?

5 A. Yes.

6 Q. Again, are you familiar with the fair market value of drilling

7 rights in the unit here and in the surrounding area?

8 A. Yes.

9 Q. Could you advise the Board as to what those are?

10 A. It's a five dollar bonus, a five year term at a one-eighth

11 royalty.

12 Q. In your professional opinion, do the terms you've just

13 testified to represent the fair market value of and the fair and reasonable

14 compensation to be paid for drilling rights within this unit?

15 A. Yes.

16 JIM KAISER: Again, Mr. Chairman, we'd ask that the election

17 testimony be incorporated.

18 BENNY WAMPLER: It will be incorporated.

19 Q. Ms. Green, we do not need to establish... the Board does

20 not need to establish an escrow account for this well, is that correct?

21 A. That's correct.

22 Q. And who should be named operator under any force

23 pooling order?

24

1 A. Columbia Natural Resources, LLC.

2 JIM KAISER: Nothing further of this witness, Mr. Chairman.

3 BENNY WAMPLER: Questions from members of the Board of this  
4 witness?

5 (No audible response.)

6 JIM KAISER: Call your next witness.

7

8 ROBERT LEE KEENON

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11 Q. Mr. Keenon, do your responsibilities include the land  
12 involved here and in the surrounding area?

13 A. They do.

14 Q. And you're familiar with the proposed exploration and  
15 development of this unit?

16 A. Yes.

17 Q. And what's the total depth of the proposed well?

18 A. 6,150 feet.

19 Q. And the estimated reserves?

20 A. 400 million standard cubic feet.

21 Q. Are you familiar with the well costs for this proposed well?

22 A. Yes.

23 Q. Has an AFE been reviewed, signed and submitted to the  
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1 Board as Exhibit C?

2 A. It has.

3 Q. In your opinion, does it represent a reasonable estimate of

4 the well costs?

5 A. It does.

6 Q. Could you state both the dry hole costs and completed well

7 costs for this well?

8 A. The dry hole costs are estimated to be \$240,198 and the

9 completed well costs, including the well line, are \$461,649.

10 Q. Do these costs anticipate a multiple completion?

11 A. They do.

12 Q. Does your AFE include a reasonable charge for

13 supervision?

14 A. It does.

15 Q. In your professional opinion, would the granting of this

16 application be in the best interest of conservation, the prevention of waste and the

17 protection of correlative rights?

18 A. It would.

19 JIM KAISER: Nothing further of this witness at this time, Mr.

20 Chairman.

21 BENNY WAMPLER: Any questions from members of the Board?

22 BILL HARRIS: Mr. Chairman, one question.

23 BENNY WAMPLER: Mr. Harris.

24

25

1                    BILL HARRIS: Mr. Keenon, this well line, is this something new that  
2 we've not seen or is this---?

3                    ROBERT L. KEENON: No, sir, that's always been there. It's just to  
4 clarify. Sometimes you will see a well AFE without a well line, which is like small  
5 tie in line to a gathering facility. It may or may not include those. Sometimes it  
6 can...your estimate of the well costs can be a little bit tilted or under estimated if it  
7 does not include that. But if you'll review any of the past ones that we've  
8 submitted over the past two or three years or as long as I've been here are  
9 completed well costs, normally include that anticipated charge for a well line.

10                  BILL HARRIS: Okay. Okay, that answered the other question about  
11 what a well line...thank you.

12                  BENNY WAMPLER: Other questions from members of the Board?  
13 (No audible response.)

14                  BENNY WAMPLER: Do you have anything further, Mr. Kaiser?

15                  JIM KAISER: Mr. Chairman, we'd ask that the application be  
16 approved as submitted.

17                  BENNY WAMPLER: Is there a motion?

18                  JAMES McINTYRE: So moved.

19                  BENNY WAMPLER: Motion for approval.

20                  PEGGY BARBAR: I second.

21                  BENNY WAMPLER: Second. Any further discussion?

22 (No audible response.)

23                  BENNY WAMPLER: All in favor, signify by saying yes.

24

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1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. Next is a petition from  
5 Hard Rock Exploration, Incorporated for pooling of conventional unit HRVAE #15,  
6 docket number VGOB-06-0117-1575. We'd ask the parties that wish to address  
7 the Board in this matter to come forward at this time.

8 JIM KAISER: Mr. Chairman, Jim Kaiser and Jim Stephens on behalf  
9 of Hard Rock Exploration. I'll remind Mr. Stephens that he has been previously  
10 sworn. Is everybody's copy of the AFE okay on this one?

11 BENNY WAMPLER: Yes.

12

13 JIM STEPHENS

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Mr. Stephen, you previously stated who you were  
17 employed by and in what capacity. Do your responsibilities include the land  
18 involved here and in the surrounding area?

19 A. Yes, they do.

20 Q. And you're familiar with the application that we filed  
21 seeking to establish the drilling unit...it is a statewide spacing well, correct?

22 A. Yes.

23 Q. And to pool any unleased interest for Hard Rock well #15,

24

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1 which was dated December the 16th, 2005?

2 A. Yes.

3 Q. Now, prior to filing the application, were efforts made to

4 contact each of the respondents and an attempt made to work out an agreement

5 regarding the development of the unit involved?

6 A. Yeah.

7 Q. And what is the interest under lease to Hard Rock within

8 the unit at this time?

9 A. 47.84%.

10 Q. And 52.96% remains unleased?

11 A. Yes.

12 Q. Or actually it's just leased to EOG Resources, is that

13 correct?

14 A. Uh-huh.

15 Q. And you've force pooled their interest in numerous wells in

16 this area, Buchanan County before, and the two of you have always been able to

17 work out something voluntarily or, I guess in most cases, they've just been taking

18 their election?

19 A. Yes.

20 Q. Okay. And are all the unleased parties set out in Exhibit B-

21 3?

22 A. Yes.

23 Q. And we don't have any unknown or unlocateable interest

24

1 owners, is that correct?

2 A. That's correct.

3 Q. And are the addresses set out in Exhibit B to the

4 application, the last known addresses for the respondents?

5 A. Yes.

6 Q. And are you requesting this Board to force pool all

7 unleased interest listed at Exhibit B-3?

8 A. Yes.

9 Q. Are you familiar with the fair market value of drilling rights

10 in the unit here and in the surrounding area?

11 A. Yes.

12 Q. Could you advise the Board as to what those are?

13 A. It's a five dollar bonus, a five year term and an eighth

14 royalty.

15 Q. In your opinion, do the terms you've just testified to

16 represent the fair market value of and the fair and reasonable compensation to be

17 paid for drilling rights within this unit?

18 A. Yes.

19 JIM KAISER: Mr. Chairman, we'd again ask that election option

20 testimony be incorporated for purposes of this hearing.

21 BENNY WAMPLER: It will be incorporated.

22 Q. Okay. We've establish we don't need to create an escrow

23 account, correct?

24

1 A. Yes.

2 Q. And who should be named operator under any force

3 pooling order?

4 A. Hard Rock Exploration, Inc.

5 Q. And what's the total depth of the proposed well?

6 A. 6700 feet.

7 Q. And the estimated reserves for the unit?

8 A. 300 million.

9 Q. And did you personally prepare an AFE, which was signed

10 and submitted to the Board as Exhibit C to the application?

11 A. Yes.

12 Q. In your opinion, does it represent a reasonable estimate of

13 the well costs?

14 A. Yes.

15 Q. Could you state those wells costs for the Board?

16 A. The dry hole costs are \$232,660 and the completed well

17 costs are \$461,749.

18 Q. Do these costs anticipate a multiple completion?

19 A. Yes, they do.

20 Q. Does your AFE include a reasonable charge for

21 supervision?

22 A. Yes, it does.

23 Q. In your professional opinion, would the granting of this

24

1 application be in the best interest of conservation, the---?

2 A. Yes.

3 Q. ---prevention of waste and the protection of correlative

4 rights?

5 A. Yes.

6 JIM KAISER: Nothing further of this witness at this time, Mr.

7 Chairman.

8 BENNY WAMPLER: Any questions from members of the Board?

9 JAMES McINTYRE: I have question, Mr. Chairman. Is there a

10 percentage of the oil and gas that it has to be owned before you can pool it?

11 JIM KAISER: Yes, 25%.

12 JAMES McINTYRE: 25?

13 JIM KAISER: In the case of a conventional well.

14 BENNY WAMPLER: Yeah. There's no percentage for coalbed

15 methane.

16 JAMES McINTYRE: No---?

17 BENNY WAMPLER: But 25% for conventional. Other questions?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 JIM KAISER: Mr. Chairman, we'd ask that the application be

21 approved as submitted.

22 BENNY WAMPLER: Is there a motion?

23 JAMES McINTYRE: So moved.

24

1           BENNY WAMPLER: Motion for approval.

2           PEGGY BARBAR: I second.

3           BENNY WAMPLER: Second. Any further discussion?

4           (No audible response.)

5           BENNY WAMPLER: All in favor, signify by saying yes.

6           (All members signify by saying yes.)

7           BENNY WAMPLER: Opposed, say no.

8           (No audible response.)

9           BENNY WAMPLER: You have approval. Thank you.

10          JIM KAISER: Thank you.

11          BENNY WAMPLER: For the Board, one more item, our minutes

12 from the last meeting that have been distributed. I'll entertain a motion for

13 approval or any comment.

14          BILL HARRIS: I was not here. So, I can't make a motion.

15          PEGGY BARBAR: I motion to approve.

16          BENNY WAMPLER: Motion to approve. Is there a second?

17          MARY QUILLEN: Second.

18          BENNY WAMPLER: Any further discussion?

19          (No audible response.)

20          BENNY WAMPLER: All in favor, signify by saying yes.

21          (All members signify by saying yes.)

22          BENNY WAMPLER: Opposed, say no.

23          (No audible response.)

24

1                    BENNY WAMPLER: You have approval. Do you have anything  
2 further, Mr. Wilson?

3 BOB WILSON: No, sir.

4 BENNY WAMPLER: Any Board members have anything further?

5 (No audible response.)

6 BENNY WAMPLER: Thank you very much. I appreciate it.

7

8 STATE OF VIRGINIA,

9 COUNTY OF BUCHANAN, to-wit:

10 I, Sonya Michelle Brown, Court Reporter and Notary  
11 Public for the State of Virginia, do hereby certify that the  
12 foregoing hearing was recorded by me on a tape recording  
13 machine and later transcribed under my supervision.

14                    Given under my hand and seal on this the 10th day  
15 of February, 2006.

16

17 NOTARY PUBLIC

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My commission expires: August 31, 2009.

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